

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

Received

SEP 09 2009

BOARD OF
PHARMACY

In the Matter of)

ANTHONY J. CALELLO, R.Ph.)

PH License No. 17401)

License Surrender Date 10/04/07)

Docket No. PH-08-009

COPY

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and Anthony J. Calello, R.Ph. ("Registrant"), a pharmacist registered by the Board (Pharmacist Registration No. 17401/surrendered 10/04/07), do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the file of Registrant which is maintained by the Board:

1. The parties enter into this Consent Agreement ("Agreement") in order to resolve disputed matters arising out of above-referenced Complaint Docket No. PH-08-009 ("Complaint"). Registrant previously surrendered his license to practice pharmacy in the Commonwealth of Massachusetts to the Board pursuant to the terms of that certain Voluntary Surrender Agreement executed by Registrant and the Board effective October 4, 2007 (the "2007 Agreement").
2. Pursuant to Paragraph 3. of the 2007 Agreement, Registrant has completed the required evaluation (David A. Gansler, Ph.D. Evaluation dated January 30, 2009) and petitioned the Board for the reinstatement of his pharmacist license.
3. The Board has accepted Registrant's contract with the Massachusetts Professional Recovery System ("MPRS") dated April 30, 2009 ("the Contract"), the conditions of the Contract being incorporated into the terms of this Agreement.
4. Accordingly, the Board has determined, and the Registrant agrees, that the below listed terms and conditions shall be required for the Board to reinstate Registrant's Massachusetts Pharmacist Registration No. 17401 on probationary status:
 - a. Registrant shall have completed a minimum of 30 continuing education units (CEUs) credits, including four law and ten live CEUs;

- b. Registrant's license shall be placed on PROBATIONARY STATUS for a minimum five (5) year period (the "Probation Period"); and
 - c. Termination of the Probation Period shall be governed by Paragraph 6 of this Agreement. The Registrant may be required to appear before the Board in connection with any petition to terminate the Probation Period.
5. During the Probation Period, the Registrant acknowledges and agrees:
- a. that he may not be employed in any pharmacy setting to provide direct patient care or communicate directly with patients until he is so approved to do so by the Board;
 - b. that he may not act as Manager of Record/Director of Pharmacy in any pharmacy setting;
 - c. that he must obtain prior Board approval of any setting he proposes to be employed to provide pharmacy services;
 - d. that he must provide a copy of this Agreement to any employer prior to commencing employment;
 - e. that his employer must provide monthly statements to the Board, or as directed MPRS, regarding his performance during the prior month, each such statement to be received by the Board or MPRS by the first of each month;
 - f. to undergo monitoring by MPRS in accordance with the Contract, including random drug/alcohol screenings as may be required by MPRS or the Board;
 - g. to refrain from the consumption of alcohol and the use of all controlled substances unless specifically prescribed by a treating physician and approved by the Board, who has been informed of the Registrant's history, for the purpose of prescribing for a legitimate medical purpose and in the usual course of the physician's practice;
 - h. that he may not self-prescribe controlled substances and shall adhere to all laws and regulations pertaining to the dispensing, administration and distribution of controlled substances;
 - i. that he must notify the Board in writing of any change in his current address of record within seven (7) calendar days of such changes; and
 - j. that he hereby waives any privileges concerning any and all information, reports and records relating to the Contract and this Agreement and the disclosure of such information to the Board. This release includes the Registrant's waiver of any

privileges and immunities he may possess regarding all material covered by 42 CFR Part 2 and the Criminal Offender Records Information (CORI) Act (G.L. c. 6, §§ 167-178) and authorizes the Board to have access to all such information and records.

6. Registrant agrees that the termination of the Probation Period shall be granted only if he has met the following conditions:
 - a. Registrant must apply in writing to the Board for termination of the Probation Period. The Board will not consider such a request without a recommendation from MPRS, and the Board may request a conference to discuss the merits of such request; and
 - b. Registrant has fully complied with all terms and conditions of the Contract and this Agreement and meets all other requirements for licensure.
7. This Agreement and its contents shall be incorporated into the records maintained by the Board, are matters of public record, subject to disclosure, without limitation, to the public and equivalent state licensing boards.
8. The Board agrees that in return for the Registrant's execution of this Agreement, the Board will not advance the prosecution of the Registrant pursuant to the Complaint. Any and all other rights of the Board to take action within the scope of its authority are expressly reserved.
9. The Registrant understands and agrees that his failure to comply with the terms of this Agreement shall nullify the representations contained in Paragraph 8, and permit the Board to initiate formal adjudicatory action under the State Administrative Procedure Act, G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00 *et seq.*
10. The Registrant understands and agrees that, at any time during the Probation Period, upon a determination by the Board of any violation of any of the terms and conditions of the Contract or this Agreement or any violation of the applicable laws, rules and regulations governing the practice of pharmacy, the Board may immediately suspend the Registrant's license to practice pharmacy without the requirement of further proceedings pursuant to G.L. c. 30A, for such period and on such terms as the Board may deem necessary and appropriate..
11. The Registrant understands and agrees that should he be found to have violated any of the statutes and/or regulations governing the practice of pharmacy for conduct occurring during the Probation Period, the Board may consider the conduct of the Registrant described in Paragraph 2 and more fully described in Complaint Docket No. PH-08-009 in determining an appropriate sanction for the subsequent offense.

12. The Registrant understands and agrees that any of the following may be considered by the Board to be a violation of this Agreement and a basis for disciplinary action by the Board:
- a. A sample of the Registrant's blood, breath or other substance is found to contain any evidence of alcohol or any controlled substance in violation of this Agreement or the Order;
 - b. the Board has other reliable evidence that the Registrant has used alcohol or any controlled substance in violation of the Contract or this Agreement;
 - c. the Registrant misses, or fails to call for any random screening tests, excluding an administrative or laboratory error beyond the control of the Registrant;
 - d. the Registrant refuses to cooperate with MPRS in its monitoring;
 - e. the Registrant withdraws any waiver or release provided and/or filed in connection with the Contract or this Agreement;
 - f. any report or approval required to be provided hereunder is not timely provided to the Board or MPRS; or
 - g. any term or condition of this Agreement or Registrant's Probationary status is determined to have been violated.
13. The Registrant understands and agrees that his decision to enter into this Agreement and to accept the terms and conditions herein described is a final act and is not subject to reconsideration or judicial review.
14. The Registrant states that he has used legal counsel in connection with his decision to enter into this Agreement or, if he did not, that he had an opportunity to do so and that his decision to enter into this Agreement was made of his own free will.
15. The Registrant certifies that he has read this document entitled "Consent Agreement". The Registrant understands that, by executing this Agreement, he is waiving his right to a formal hearing at which he would possess the rights 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 court in the event of an adverse ruling, and all other rights set forth in G.L. c. 30A and 801 CMR 1.01 *et seq.* Registrant states that he further understands that in executing this document entitled "Consent

Agreement", he is knowingly and voluntarily waiving his right to a formal hearing and to all of the above listed rights.

Susan Calello 7/7/09
Witness (sign name and date)

[Signature] 7/7/09
Anthony J. Calello, R.Ph. (sign and date)

Susan Calello 7-7-09
Witness (print name)

BOARD OF REGISTRATION
IN PHARMACY

James T. DeVita

James T. DeVita, R.Ph.
President
Board of Registration in Pharmacy

Effective Date: 7/9/09

Decision No. 1620