

Received

BOARD OF
PHARMACY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Anthony M. Pecoraro, R.Ph.)
Pharmacist Registration No. 22866)
(Expired 12/31/2010))

Docket No. PHA-2009-0028

VOLUNTARY SURRENDER AGREEMENT

The Board of Registration in Pharmacy ("Board") and **Anthony M. Pecoraro, R.Ph.** ("Registrant"), a pharmacist registered by the Board (Pharmacist Registration No. 22866), do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the file of the Registrant which is maintained by the Board:

1. The parties enter into this Voluntary Surrender Agreement ("Agreement") in order to resolve disputed matters arising out of a complaint pending against the Registrant before the Board as Docket No. PHA-2009-0029 (the "Complaint") relating to the suspension of his Florida Pharmacist license (License No. PS32927) by the State of Florida Department of Health (Florida Order), effective October 21, 2008 and continuing as of the date the Board executed this Agreement (Florida Board Case No. 2008-100856).
2. Registrant acknowledges and agrees that the conduct which was the basis for the Florida Order referenced in Paragraph 1 constitutes violations of G.L. c. 112, § 61 and Board regulations (247 CMR 9.00 and 10.00) and, as such, is a basis for disciplinary action by the Board.
3. Accordingly, the Registrant freely agrees to and the Board accepts the Voluntary Surrender of Registrant's expired license to practice pharmacy in the Commonwealth of Massachusetts (License No. PH22866), together with any right Registrant may have to renew such license, commencing on the Effective Date of this Agreement.
4. This Agreement and its contents shall be incorporated into the records maintained by the Board, are matters of public record, and are subject to disclosure without limitation to the public and equivalent state licensing boards.
5. 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.

- b. The Board will place Registrant's license on probationary status for a period commensurate with the Settlement Agreement, commencing on the effective date of this Agreement and continuing until such time the Florida Board returns his license to good standing (the "Probation Period");
- c. The Registrant acknowledges and agrees that he is required to abide by all of the terms and conditions of the Settlement Agreement during the Probation Period;
- d. 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. The Board will not consider such a petition without official documentation of license status from the Florida Board;
- e. The Registrant agrees to provide written notice to the Board of any: (i) change in his licensure status in the State of Florida, or any other jurisdiction he may be licensed; or (ii) violation of the Settlement Agreement, within three (3) days of the date of any license status change or violation; and
- f. The Registrant shall return an executed copy of this Agreement to the Board within ten (10) days of receipt.

5. During the Probation Period, the Registrant agrees:

- a. to undergo monitoring as provided in the Settlement Agreement, which includes random drug/alcohol screenings as required by the Florida Board;
- b. to refrain from the consumption of alcohol and the use of all controlled substances unless specifically prescribed by a treating physician in accordance with the requirements of the Settlement Agreement;
- c. 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; and
- d. that he hereby waives any privileges concerning and all information, reports and records relating to the Settlement Agreement 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 submitting evidence

of the Registrant's license in good standing in the State of Florida. 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 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 Contract or Probation Periods, upon a determination by the Board of any violation of any of the terms and conditions of this Agreement or the Contract, 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 not less than ninety (90) days and continuing until full compliance with this Agreement and the Contract is achieved by the Registrant.

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 Licensee described in Paragraph 2 and more fully described in Complaint Docket No. PHA-2009-0028 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 Settlement Agreement;
- b. the Board has other reliable evidence that the Registrant has used alcohol or any controlled substance in violation of this Agreement or the Settlement 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 required monitoring; or
- e. the Registrant withdraws any waiver or release provided and/or filed in connection with this Agreement or the Settlement Agreement.

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.

Louise M. Pecoraro
Witness (sign name)

LOUISE M. PECORARO
Witness (print name)

Anthony M. Pecoraro
Anthony M. Pecoraro, R.Ph.

Effective Date: 9/30/2009

BOARD OF REGISTRATION
IN PHARMACY

By: James T. DeVita
James T. DeVita, R.Ph.
President

Date: September 23, 2009

Decision No. 2164