

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Brian T. McGonigle)
PI156405)

Docket No. PHA-2013-0175

POST SURRENDER CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Pharmacy ("Board") and Brian T. McGonigle ("Registrant"), a Pharmacy Intern licensed by the Board, Registration No. PI156405, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Registrant's record maintained by the Board:

1. The Registrant agrees that this Post Surrender Consent Agreement for Probation ("Agreement") will supersede the Consent Agreement for Voluntary Surrender dated May 14, 2014. Further, the Registrant agrees that this Agreement has been executed as a result of the Board's:
 - a. receipt and investigation of a complaint filed against him, Docket PHA-2013-0175, which resulted in the surrender of his pharmacy intern license, pursuant to a Consent Agreement for Voluntary Surrender with the Board effective May 14, 2014 in resolution of the complaint; and
 - b. consideration of the Registrant's request for license reinstatement and documentation he submitted pursuant to the requirements of the Surrender Agreement referenced in the subparagraph immediately above.
2. The Registrant admits that while employed as a pharmacy intern at Rite Aid Pharmacy #10185, in Waltham, MA, on or about July 6, 2013 he consumed approximately four beers and returned to the pharmacy two and one half hours later and attempted to work as a pharmacy intern while under the influence of alcohol. On or about September 17, 2013, he was arrested and charged for driving under the influence of alcohol. The Registrant acknowledges that the foregoing facts warranted disciplinary action by the Board under M.G.L. c. 112, §§ 42A & 61, 247 CMR 9.01 (1), and 247 CMR 10.03(g).
3. The Registrant agrees that his Pharmacy Intern registration shall be placed on PROBATION for 5 years, beginning January 2015, the date he entered the Massachusetts Professional Recovery System (MPRS).
4. During the Probationary Period, the Registrant further agrees that he shall comply with all of the following requirements to the Board's satisfaction:
 - a. Comply with all laws and regulations governing the practice of pharmacy and not engage in any continued or further conduct such as that set forth in Paragraph 2.

- b. Notify the Board in writing within ten (10) days of each change in his name and/or address.
 - c. Timely renew his registration.
 - d. Provide each preceptor with a copy of this consent agreement for probation;
 - e. Submit directly to the Board, according to the conditions and procedures outlined in **Exhibit A** of this Agreement, the results of random, supervised urine tests for substances of abuse, collected from the Registrant no less than fifteen (15) times per year during the Probationary Period, all of which are required to be negative.
 - f. Abstain from the use of alcohol, all substances of abuse, and substances with potential for abuse.
 - g. If prescribed any controlled substance, notify the Board within three (3) days and arrange for the prescriber to submit immediately thereafter and directly to the Board a written statement of the kind and amount of each controlled substance prescribed with medical necessity for each such prescription.
5. During the Probationary Period, the Registrant further agrees that he shall participate in and comply with the Massachusetts Professional Recovery System ("MPRS") program.
6. If and when the Board determines that the Registrant has complied to the Board's satisfaction with all the requirements contained in this Agreement and the MPRS Program, the Probationary Period will terminate upon written notice to the Registrant from the Board¹.
7. If the Registrant does not comply with each requirement of this Agreement and the MPRS Program, or if the Board opens a Subsequent Complaint² during the Probation Period, the Registrant agrees to the following:
- a. The Board may upon written notice to the Registrant, as warranted to protect the public health, safety, or welfare:
 - i. EXTEND the Probationary Period; and/or
 - ii. MODIFY the Probation Agreement requirements; and/or
 - iii. IMMEDIATELY SUSPEND the Registrant's registration.
 - b. If the Board suspends the Registrant's registration pursuant to Paragraph 6(a)(iii), the suspension shall remain in effect until:

¹ In all instances where this Agreement specifies written notice to the Registrant from the Board, such notice shall be sent to the Registrant's address of record.

² The term "Subsequent Complaint" applies to a complaint opened after the Effective Date, which (1) alleges that the Registrant engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Registrant shall have an opportunity to respond.

- i. the Board gives the Registrant written notice that the Probationary Period is to be resumed and under what terms; or
 - ii. the Board and the Registrant sign a subsequent agreement; or
 - iii. the Board issues a written Final Decision and Order following adjudication of the allegations (1) of noncompliance with this Agreement, and/or (2) contained in the Subsequent Complaint.
8. The Registrant agrees that if the Board suspends his registration in accordance with Paragraph 7, he will immediately return his current Massachusetts registration to practice as Pharmacy Intern to the Board, by hand or certified mail. The Registrant further agrees that upon suspension, he will no longer be authorized to engage in practice as a Pharmacy Intern in the Commonwealth of Massachusetts and shall not in any way represent himself as a Pharmacy Intern until such time as the Board reinstates his registration³.
9. The Registrant agrees that when he executed the original Consent Agreement for Surrender that he entered into with the Board in final resolution of the above-captioned complaint, Docket No. PHA-2013-0175 effective on May 14, 2014, he knowingly and voluntarily waived his right to a formal adjudication concerning the allegations against him in the complaints, the rights that he would have possessed during such adjudication 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 to all other rights as set forth in the Massachusetts Administrative Procedures Act, M.G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* The Licensee further understands and agrees that in executing this document entitled "Post-Surrender Consent Agreement for Probation," he is knowingly and voluntarily waiving any rights he has to a formal adjudication concerning the Board's action on his request for termination of his surrender of his pharmacy intern license in connection with the above-captioned complaint, the rights that he would possess during such an adjudication and to those other rights listed above.
10. The Registrant 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 Registrant acknowledges that after the Effective Date, the Agreement constitutes a public record subject to the Commonwealth of Massachusetts' Public Records Law, M.G.L. c. 4, § 7.
12. The Registrant certifies that he has read this Agreement. The Registrant understands and agrees that entering into this Agreement is a voluntary and final act and not subject to reconsideration, appeal or judicial review.

³Any evidence of unlicensed practice or misrepresentation as a Pharmacy Intern after the Board has notified the Registrant of his registration suspension shall be grounds for further disciplinary action by the Board and the Board's referral of the matter to the appropriate law enforcement authorities for prosecution.

13. Registrant may apply for reconsideration of the terms of this Agreement when he is ready to take the NAPLEX exam.

Nathan McDonald 09/23/2015
Witness (sign and date)

Brian McGonigle 09/23/2015
Brian T. McGonigle
Registrant (sign and date)

David Sencabaugh
David Sencabaugh, R. Ph
Executive Director
Board of Registration in Pharmacy

September 29, 2015
Effective Date of Probation Agreement

Fully Signed Agreement Sent to Registrant on 9/29/15 by Certified Mail
No. 7014 1826 0000 6749 6599