

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Denise Fahmie)
License No. 20769)
License Expires 12/31/08)
_____)

Docket No. PH-06-026

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and Denise Fahmie, R.Ph. ("Registrant"), a pharmacist registered by the Board (Pharmacist Registration No. 20769), 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 the complaint pending against Registrant before the Board as Docket No. PH-06-026 (the "Complaint").
2. The Registrant agrees that this Agreement has been entered into as a result of her surrender of her license to practice pharmacy in the State of New Jersey (License No. 28RI02860300) ("New Jersey License") for admission to the diversion, for personal consumption, of controlled substances. The Registrant surrendered her license to practice pharmacy in New Jersey on or about March 23, 2005.
3. The Board complaint committee reviewed the Complaint investigative report on November 7, 2006, and subsequently reviewed and accepted Registrant's Order for Surrender of License ("Order") with the State of New Jersey, State Board of Pharmacy ("New Jersey Board"), and the Registrant's Agreement with the Professional Assistance Program ("PAP") of the Education Department of the State of New York ("New York Agreement"), the conditions of the New York Agreement being hereby incorporated into the terms of this Agreement.
4. Accordingly, the Registrant freely agrees to the following:
 - a. The Registrant agrees that her conduct described in Paragraph 2 above constitutes professional misconduct warranting Board disciplinary action pursuant to G.L. c. 112, § 61 and Board Regulations 247 CMR 9.01(1) and 9.01(6);
 - b. The Registrant agrees to abide by all of the terms and conditions of the

New York Agreement and this Agreement for the duration of her participation in the PAP, unless sooner dissolved by the New York Board, or the Board;

- c. The Board will place Registrant's license on probationary status commencing on the effective date of this Agreement and continuing until such time as the New Jersey Board returns her license to good standing and the Registrant is discharged from the PAP (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 a recommendation by the New Jersey Board and the PAP;
 - e. The Registrant further agrees to provide a written report to the Board every six months during the Probation Period, on December 1st and June 30th certifying that the Registrant is in compliance with the New York Agreement; and
 - f. The Registrant agrees to return a signed 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 by the PAP, which shall include random drug/alcohol screenings as required by the PAP or the Board;
 - b. 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;
 - c. that she 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 she hereby waives any privileges concerning any and all information, reports and records relating to the Order, the New York 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 she 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 she 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 good standing of the Registrant's license in New Jersey and her compliance with the New York Agreement, and the Board may request a conference to discuss the merits of such request;
 - 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 her 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 this Agreement or the New York 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 not less than ninety (90) days and continuing until full compliance with this Agreement and the New York Agreement is achieved by the Registrant.
11. The Registrant understands and agrees that should she 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-06-026 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 this Agreement or the New York 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 the PAP in its monitoring; or
 - e. the Registrant withdraws any waiver or release provided and/or filed in connection with this Agreement or the New York 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 she has used legal counsel in connection with his decision to enter into this Agreement or, if she did not, that she had an opportunity to do so and that her decision to enter into this Agreement was made of her own free will.
 15. The Registrant certifies that she has read this document entitled "Consent Agreement". The Registrant understands that, by executing this Agreement, she is waiving her right to a formal hearing at which she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her 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 she further understands that in executing this document entitled "Consent Agreement", she is knowingly and voluntarily waiving her right to a formal hearing and to all of the above listed rights.

Dennis P. Kravannis, R.Ph.
 Witness (sign name and date) 9/18/07
Dennis P. Kravannis
 Witness (print name)

Denise Fahmie, R.Ph. 9/18/07
 Denise Fahmie, R.Ph. (sign and date)
James T. DeVita
 James T. DeVita, R.Ph.
 President
 Board of Registration in Pharmacy

Date: 9/21/07
 Certified Mail No.
 Decision No.
 Eff. Date: