

Received

BOARD OF REGISTRATION  
IN PHARMACY

In the Matter of  
Dennis Francesconi, R.Ph.  
Pharmacist Registration No. 17216

Docket No. PH-06-094

BOARD OF  
PHARMACY

The Board of Registration in Pharmacy ("Board") and Dennis Francesconi, R.Ph. ("Registrant"), a pharmacist registered by the Board (Pharmacist Registration No. 17216), 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-06-094 ("Complaint").
2. The Registrant acknowledges that the Complaint relates to Registrant's diversion, for personal use, of controlled substances, including Hydrocodone/APAP 10/325 mg (1873 tablets), Alprazolam 2 mg (730 tablets) and Ambien 12.5 mg (50 tablets), during the period from on or about March 2006 through May 2006 while Registrant was employed as a pharmacist at Brooks Pharmacy located at 405 Broadway, Everett, Massachusetts (matter pending [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]).
3. Accordingly, the Registrant agrees to the following:
  - a. that his 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. to abide by all of the terms and conditions of the contract ("Contract") he executed with the Massachusetts Professional Recovery System ("MPRS") dated October 24, 2006 for the five year duration of the Contract ("Contract Period") unless sooner dissolved by the MPRS Committee and the Board, including the MPRS Contingent Surrender Agreement attached hereto as Attachment A;
  - c. that during the initial twelve months of the Contract Period, or such longer period as the Board may determine to be appropriate, Registrant shall surrender his pharmacist license to the Board (the "Surrender Period"), such surrender to be



effective as of the date Registrant returns his license to the Board ("Effective Date"). After the first twelve months of the Contract Period, provided the Registrant can demonstrate compliance with the terms and conditions of the Contract and this Agreement, Registrant may petition the Board to terminate the Surrender Period. At the time of any such petition to terminate the Surrender Period, the Board will consider any convictions or relevant conduct not referenced in Paragraph 2 of this Agreement. If the Registrant is determined to be in compliance with all required terms of this Agreement and the Contract, the Board may terminate the Surrender Period and place Registrant's license on probationary status for a minimum five-year period commencing on the date of the termination of the Surrender Period (the "Probation Period"). Termination of the Probation Period shall be governed by Paragraph 5 of this Agreement. The Registrant may be required to appear before the Board in connection with any petition to terminate the Surrender Period. The Board will not consider such a petition without a recommendation by the MPRS Committee; and

- d. to return a signed copy of this Agreement to the Board within ten (10) days of receipt.

4. During the Surrender and Probation Periods, the Registrant agrees:

- a. to undergo monitoring by the Board which shall include random drug/alcohol screenings as required by MPRS 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 MPRS, 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 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;
- d. that he may not be employed as manager of record in any pharmacy or pharmacy department; and
- e. that he hereby waives any privileges concerning and all information, reports and records relating to the Contract 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.

5. 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 by the MPRS Committee and the Board may request a conference to discuss the merits of such request;
- b. Registrant has provided documentation, satisfactory to the Board that he has complied with the Contract and successfully completed the MPRS; and
- c. Registrant has fully complied with all terms and conditions of this Agreement and meets all other requirements for licensure.

6. 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.

7. The Board agrees that in return for the Registrant's execution of this Agreement and compliance with all terms and conditions of the Agreement and Contract, 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.

8. 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, or any determination by MPRS that the Registrant is no longer successfully participating in MPRS, 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. The provision of this section shall be applicable in addition to any requirement that the Registrant surrender his registration to the Board, pursuant to the terms of the attached Contingent Voluntary Surrender Agreement.

9. 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. PH-06-094 in determining an appropriate sanction for the subsequent offense.

10. 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 Contract;

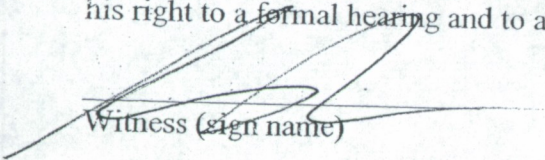


- b. the Board or MPRS has other reliable evidence that the Registrant has used alcohol or any controlled substance in violation of this Agreement or the Contract;
- c. the Registrant misses, or fails to call for any random screening tests, excluding an administrative or laboratory error beyond the control of the Registrant;
- d. the Registrant refuses to cooperate with MPRS in its monitoring; or
- e. the Registrant withdraws any waiver or release provided and/or filed in connection with this Agreement or the Contract.

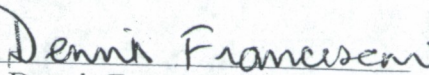
11. The Registrant understands and agrees that his decision to enter into this Agreement and to accept the terms and conditions herein described is a final act and is not subject to reconsideration or judicial review.

12. 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.

13. 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.

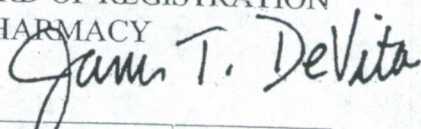
  
Witness (sign name)

\_\_\_\_\_  
Witness (print name)

  
Dennis Francesconi, R.Ph.

Date: 3/5/07

BOARD OF REGISTRATION  
IN PHARMACY

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

Effective Date: October 24, 2006

Decision No. 1377

Attachment A: Contingent Voluntary Surrender



## ATTACHMENT A

### COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

IN THE MATTER OF

**Dennis Francesconi, R.Ph.**

Pharmacist License No. 17216

Docket No. PH-06-094

#### MPRS CONTINGENT SURRENDER AGREEMENT

The Massachusetts Board of Registration in Pharmacy ("Board") and Dennis Francesconi, R.Ph. ("Registrant"), a Pharmacist registered by the Board (PH License No. 17216), 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 understands that entering into this MPRS Contingent Surrender Agreement ("Contingent Surrender Agreement or "Agreement") with the Board is a condition to participation into the Massachusetts Professional Recovery System (MPRS) and the renewal of his license to practice pharmacy in the Commonwealth.
2. The Registrant understands that this Contingent Surrender Agreement is a contingent agreement and, as such, shall only become effective if he *does not* successfully complete the MPRS, as described in Paragraph 3. The Registrant further understands that this Agreement shall be maintained in his MPRS file until it is either nullified by his successful completion of the MPRS or it is made effective by his failure to successfully complete the MPRS.
3. The Registrant acknowledges that he has agreed to complete the MPRS and to comply with all of the terms and conditions in his MPRS Contract. The Registrant hereby acknowledges and agrees that if he *does not* successfully complete the MPRS, either by withdrawal from the MPRS or by termination from the MPRS for noncompliance with his MPRS Contract, he will no longer be a participant in the MPRS *and* that pursuant to this Agreement, he has agreed that the SURRENDER of his license shall be effective without the requirement of any further action by the Registrant or the Board. In such event, the date upon which this Agreement and his pharmacist license surrender will be effective shall be five (5) days from the date on which a copy of this Agreement, which has been signed by the Board and dated as effective is mailed to the Registrant by certified mail ("Effective Date"), or such earlier date as may be determined by the Board.
4. The Registrant and the Board acknowledge and agree this Agreement is entered into in accordance with that certain Consent Agreement executed by the Board and the Registrant in the above matter ("Consent Agreement").



5. The Registrant also acknowledges and agrees that if this Agreement becomes effective:
  - (a) he shall immediately surrender his pharmacist license to the Board, in accordance with the requirements of Paragraph 7; and
  - (b) such license surrender shall be for conduct in violation of M.G.L. c. 61, s. 61 (deceit malpractice and gross misconduct in the practice of the profession and for offenses against the laws of the Commonwealth relating thereto) and Board regulations 247 CMR 9.01(1) and 9.01(6), as set forth in the Consent Agreement.
6. The Registrant understands that as of the Effective Date of this Agreement and his pharmacist license surrender, he will no longer be authorized by law to engage in the practice of pharmacy in the Commonwealth. The Registrant agrees that he may not hold herself out as a pharmacist from the Effective Date of this Agreement and his pharmacist license surrender until the such date as the Board may reinstate his license in accordance with the procedures set forth in herein. This includes, but is not limited to, seeking and/or accepting a paid or voluntary position as a pharmacist. The Registrant further understands that should he accept any paid or unpaid position as a pharmacist or engage in any practice of pharmacy after the Effective Date of this Agreement and before reinstatement of his license, evidence of such practice shall be grounds for the Board's referral of any such unlicensed practice to appropriate law enforcement authorities for prosecution.
7. The Registrant understands that any surrender of his pharmacist license in accordance with this Agreement shall be for a minimum of five (5) years, commencing with the Effective Date of this Agreement. After a five (5) year period of license surrender, the Registrant may petition the Board in writing for reinstatement of his pharmacist license. With such petition, the Registrant shall submit documentation satisfactory to the Board of his ability to practice pharmacy in a safe and competent manner. Such documentation shall include, but is not limited to, documentation of his full sustained recovery and remission from all substance abuse, dependence and addiction for the five (5) year period immediately preceding any petition for reinstatement as outlined herein and evidence of completion of all continuing education required by Board regulations within the two (2) license renewal cycles immediately preceding any reinstatement petition. The Registrant also agrees that he may be required to appear in person before the Board in connection with any request for license reinstatement. If the Registrant petitions the Board for reinstatement of his license, the Board may choose to reinstate said license if it determines that reinstatement is in the best interest of the public at large.
8. The Registrant agrees that together with any petition for license reinstatement he shall provide all of the following to the satisfaction of the Board:
  - a. Have arranged for the direct submission to the Board, the results of random supervised urine tests for substances of abuse, collected no less than ten (10) times per year during the two (2) years immediately preceding any petition for reinstatement, all of which are required to be negative;



- b. Documentation that he 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 two (2) years immediately preceding any petition for license reinstatement, such documentation to include a letter of support from his sponsor and signatures verifying this required attendance;
  - c. Documentation verifying that he has regularly attended group or individual counseling or therapy, or both, conducted by a licensed mental health provider during the two (2) years immediately preceding any petition for reinstatement. Such documentation shall be completed by each licensed mental health provider seen by the Registrant, and shall be written within thirty (30) days preceding any petition for reinstatement and sent directly by the provider to the Board. Further, such documentation shall include a summary of the Registrant's progress in therapy and his full sustained recovery from substance abuse, dependence and addiction; a statement of the frequency and length of therapy and counseling; and specific treatment recommendations for the Registrant's sustained recovery from substance abuse, dependence and addiction;
  - d. Written verification from his primary medical care provider and any other licensed health care professional(s) with whom he may have consulted, written within thirty (30) days preceding any petition for license reinstatement, that the Registrant is medically able to resume the safe and competent practice of pharmacy, including a list of all prescribed medications and the medical necessity for each;
  - e. Assist the Board in obtaining written verification that there are no pending actions or obligations, criminal or administrative, against the Registrant before any court or administrative body including, but not limited to, documentation that *at least one (1) year prior to any petition for reinstatement* he satisfactorily completed all court-ordered requirements imposed on him in connection with any criminal conviction or matter, as well as authorization from the Registrant necessary for the Board to obtain a Criminal Offender Record Information (CORI) Report of his conducted by the Massachusetts Criminal History Systems Board; and
  - f. If employed during the one (1) year immediately prior to his petition for reinstatement, have each employer during said year submit directly to the Board on official letterhead a performance evaluation that reviews the Registrant's attendance, general reliability, and overall job performance.
9. The Registrant also agrees that any reinstatement of his license by the Board after the Effective Date of this Agreement may be conditioned upon entering into a consent agreement for the PROBATION of his license for a period of time (Probationary Period). The Probationary Period shall be for a duration, and include requirements, that the Board



shall determine at the time of any reinstatement are reasonably necessary in the best interests of the public health, safety and welfare.

10. The Board agrees that when Registrant successfully completes and is discharged from the MPRS, this Agreement will be nullified and will have no further force and effect.
11. The Registrant understands that if this Agreement becomes effective, the Board may forward a copy of this Agreement to interested licensing boards and/or law enforcement agencies, as well as to any other individual or entity as required or permitted by law.
12. The Registrant understands that if he *does not* successfully complete the MPRS and this Agreement becomes effective, the surrender of his license pursuant to this Agreement shall be a final act depriving him of all privileges of registration as a pharmacist in the Commonwealth and shall not be subject to any reconsideration or judicial review.
13. The Registrant states that he has used legal counsel in connection with the decision to enter into this Agreement or, if he has not used legal counsel, that the decision not to use legal counsel has been one taken of his own free will.
14. The Registrant certifies that he has read, understood, and accepted each and every paragraph of this document entitled "MPRS Contingent Surrender Agreement." The Registrant understands that by signing this MPRS Contingent Surrender Agreement he is knowingly and voluntarily waiving any rights he may have to an adjudicatory hearing and to all the rights attendant thereto. These rights include 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 set forth in the Massachusetts Administrative Procedure Act, G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00 *et seq.*

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Effective Date

Dennis Francesconi  
Dennis Francesconi, R.Ph.

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