

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY BOARD OF REGISTRATION IN PHARMACY

In the Matter of
DONALD E. AGNEW, R. Ph.
PH LICENSE NO. 17025
REG. EXP. DATE: 12/31/2012

DOCKET NO. PHA-2012-0208
CONSENT AGREEMENT FOR VOLUNTARY SURRENDER

The Massachusetts Board of Registration in Pharmacy ("Board") and Donald E. Agnew ("Licensee"), a registered pharmacist by the Board, Registration No. PH17025, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board:

1. The Licensee acknowledges that a complaint has been filed with the Board against his Massachusetts pharmacy registration ("registration") related to the conduct set forth in paragraph 2, identified as Docket No. PHA-2012-0208 ("the Complaint").
2. The Licensee acknowledges that if the matter went to a hearing, the Board could find that he was terminated from Shaw's Osco Pharmacy, in Maine, for unlawful possession of controlled substances. The Licensee has entered into a Consent Agreement for Surrender with the Maine State Board of Pharmacy and Preliminary Agreement for Practice Restrictions with the New Hampshire State Board of Pharmacy. The Licensee acknowledges that his conduct constitutes failure to comply with the Board's regulations at 247 Code of Massachusetts Regulations ("CMR") 9.01 (1), (3) and (6), 247 CMR 10.03 (1) section (t) and warrants disciplinary action by the Board under Massachusetts General Laws ("G.L.") Chapter 112, section 61 and Board regulations at 247 CMR 10.06, Disciplinary Actions.
3. The Licensee agrees to **SURRENDER** his pharmacy registration for a minimum of one year ("Surrender Period"), commencing with the date on which the Board

signs this Agreement ("Effective Date").

4. After the Surrender Period, and when the Licensee can complete to the satisfaction of the Board all of the requirements set forth in this Paragraph and in the Board's policy 2011-02 "License Reinstatement following Surrender, Suspension, or Revocation," the Licensee may petition the Board for reinstatement of his registration. The petition must be in writing and must include the following documentation of the Licensee's ability to practice as a pharmacist in a safe and competent manner, all to the Board's satisfaction:
 - a. All documentation required pursuant to Board's policy 2011-02 "License Reinstatement following Surrender, Suspension, or Revocation."
 - b. A performance evaluation sent directly to the Board from each of the Licensee's employers, prepared on official letterhead that reviews the Licensee's attendance, general reliability, and specific job performance during the year immediately prior to the date on which the Licensee submits his petition ("petition date").
 - c. Documentation from the Maine Medical Professionals Health Program ("MPHP") coordinator that verifies that the Licensee has participated in and remained in compliance with MPHP for at least two years.
 - d. Authorization for the Board to obtain a Criminal Offender Record Information ("CORI") report of the Licensee conducted by the Massachusetts Criminal History Systems Board.
 - e. Documentation that the Licensee has completed, at least one year prior to the petition date, all requirements imposed upon him in connection with all criminal and/or administrative matter(s) arising from, or related to, the conduct identified in Paragraph 2. Such documentation shall be certified and sent directly to the Board by the appropriate court or administrative body and shall include a description of the requirements and the disposition of each matter.
 - f. Certified documentation from the state board of pharmacy of each jurisdiction in which the Licensee has ever been registered to practice as a pharmacist, sent directly to the Massachusetts Board identifying his registration status and discipline history, and verifying that his pharmacist registration is, or is eligible to be, in good standing and free of any restrictions or conditions.
5. In addition to the items identified in Paragraph 4, the Licensee shall submit the following documentation of the Licensee's stable and fully sustained recovery from substance abuse, dependency and/or addiction for two years immediately prior to the petition date, all to the Board's satisfaction:

- a. The results of random supervised urine tests for substances of abuse sent directly to the Board and collected from the Licensee according to the conditions and procedures outlined in Attachment A, no less than 15 times per year during the two years immediately preceding the petition date. All such results are required to be negative.
 - b. Documentation that the Licensee has obtained a sponsor and has regularly attended Alcoholics Anonymous ("AA") and/or Narcotics Anonymous ("NA") meetings at least three times per week during the two years immediately preceding the petition date. This documentation must include a letter of support from the Licensee's sponsor and signatures verifying the required attendance.
 - c. Documentation prepared within 30 days of the petition date and sent directly to the Board from a licensed mental health provider verifying that the Licensee has regularly attended group or individual counseling or therapy, or both, conducted by the mental health provider. Such documentation shall specify the frequency and length of the therapy and/or counseling and shall include a summary of the Licensee's progress in therapy and specific *treatment recommendations for the Licensee's sustained recovery from substance abuse, dependency and addiction.*
6. If and when the Board determines that the Licensee has complied to the Board's satisfaction with all the requirements contained in Paragraphs 4 and 5, the Board shall send written notice to the Licensee which shall terminate the Surrender Period.
 7. The Licensee agrees that he will not practice as a registered pharmacist in Massachusetts from the Effective Date unless and until the Board reinstates his registration.
 8. The Board agrees that in return for the Licensee's execution of this Agreement it will not prosecute the Complaint.
 9. The Licensee understands that he has a right to formal adjudicatory hearing concerning the allegations against him and that during said adjudication he would possess 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 as set forth in the Massachusetts Administrative Procedures Act, G. L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* The Licensee further understands that by executing this Agreement he is knowingly and voluntarily waiving his right to a formal adjudication of the Complaint.
 10. The Licensee acknowledges that he has been represented by legal counsel in

connection with the Complaint and this Agreement.

11. The Licensee acknowledges that after the Effective Date, the Agreement constitutes a public record of disciplinary action by the Board. The Board may forward a copy of this Agreement to other licensing boards, law enforcement entities, and other individuals or entities as required or permitted by law.
12. The Licensee certifies that he has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a final act and not subject to reconsideration, appeal or judicial review.

Karen Mullen 5/14/2013 Donald E Agnew
Witness (sign and date) DONALD E. AGNEW, R. Ph.

Licensee (sign and date)

Karen C. Trudew
Witness (print name)

James T. DeVita
James T. DeVita

President

Board of Registration in Pharmacy

5/29/2013
Effective Date of Surrender Agreement

Fully Signed Agreement Sent to Licensee on May 29, 2013 by Certified
Mail No. 7010 2780 0001 8675 9708

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