

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

Received

\_\_\_\_\_  
In the Matter of )  
**Donald H. Weiner, R.Ph.** )  
Pharmacist Registration No. 14146 )  
\_\_\_\_\_ )

Docket No. PHA-2009-0203

JUL 13 2010

BOARD OF  
PHARMACY

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and **Donald H. Weiner, R.Ph.** ("Registrant"), a pharmacist registered by the Board (Registration No. 14146), 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 the complaint pending against Registrant before the Board as Docket No. PHA-2009-0203 (the "Complaint").
2. The Registrant agrees that this Agreement has been entered into as a result of Registrant's diversion of certain prescription medications for personal use (Iophen-C 20 ml NR liquid and Ambien) on various dates over a period of time concluding in November 2009 while Registrant was employed at CVS/pharmacy #02283 (715 Morrissey Blvd., Dorchester).
3. Accordingly, the Registrant acknowledges and agrees to the following:
  - a. that his conduct described in Paragraph 2 above constitutes professional misconduct which warranting Board disciplinary action under G.L. c. 112, § 61 and Board Regulations 247 CMR sections 9.01(1), 9.01(6), 10.03(a), 10.03(b), 10.03(e), 10.03(h), 10.03(u), 10.03(v), and 10.03(w);
  - b. that his license will be suspended for a minimum one year period (Suspension Period) commencing March 29, 2010, during which time Registrant may not practice as a pharmacist or be employed by or provide services of any type on a premises licensed by the Board;
  - c. that prior to petitioning the Board for the termination of the Suspension Period, Registrant must have completed:
    - (i) a psychiatric evaluation from a Board-approved psychiatrist completed during the two month period prior to petition filing date;
    - (ii) a medical evaluation from a Board-approved physician completed during the one month period prior to petition filing date,



with both evaluation reports to be provided to the Board and assesses Registrant's fitness to resume the practice of pharmacy and include any recommendations regarding therapy or terms and conditions regarding Registrant's practice of pharmacy;

- (iii) the Multistate Pharmacy Jurisprudence Examination (MPJE) (score of at least 75%); and
  - (iv) required continuing education credits (247 CMR 4.00) for all renewal periods from March 29, 2010 to the date of any petition filed by Registrant.
- d. provided Registrant has complied with Paragraph 3.c. and provided all required documentation of compliance to the Board with any petition, in accordance with Paragraph 4., the Board will terminate the Suspension Period and place Registrant's license on probationary status for a minimum four (4) year period (Probation Period);
  - e. that during the Probation Period, Registrant may not act in the capacity of manager of record of a retail pharmacy/ pharmacy department or director of pharmacy of an institutional pharmacy, clinic pharmacy or other health system pharmacy department, until such time as the Board has terminated the Probation Period in accordance with Paragraph 4; and
  - f. that during the Probation Period, Registrant may not fill any personal prescriptions, or present any prescriptions for himself, at any place of employment.
4. Registrant agrees that termination of the Suspension and Probation Periods shall be granted only if Registrant has met the following conditions:
- a. Registrant has applied in writing to the Board for termination of the Suspension and Probation Periods. The Board may schedule Registrant's appearance to discuss the merits of such a request; and
  - b. Registrant has fully complied with all terms and conditions of the Agreement and meets all other requirements for licensure.
5. The Agreement and its contents shall be incorporated into the records maintained by the Board. The Agreement is a public record subject to disclosure without limitation to the public and equivalent state licensing boards.
6. 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.
7. The Registrant understands and agrees that his failure to abide by the terms of this Agreement shall nullify the representations contained in Paragraph 6, 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.*

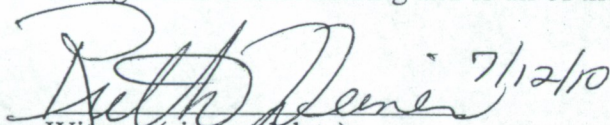


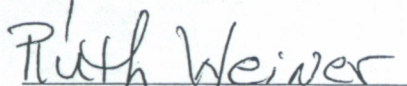
8. The Registrant understands and agrees that, at any time during the Probation Period, upon a determination by the Board of any violation of any of the terms and conditions of this Agreement, or any violation of the applicable laws, rules and regulations governing the practice of pharmacy, the Board may seek to immediately REVOKE or otherwise discipline the Registrant's license to practice as a pharmacist without the requirement of further proceedings pursuant to G.L. c. 30A.

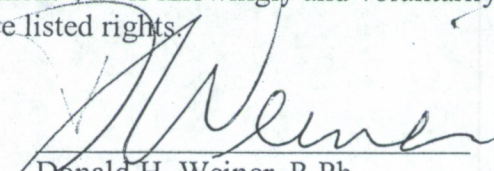
9. The Registrant understands and agrees that his decision to enter into this Agreement and to accept the terms and conditions herein described is a final act and is not subject to reconsideration or judicial review.

10. The Registrant states that he has used legal counsel in connection with his decision to enter into this Agreement and that his decision to enter into this Agreement was made of his own free will.

11. 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 and date) 7/12/10

  
Witness (print name)

  
Donald H. Weiner, R.Ph.  
Registrant

Date: 7/12/10

BOARD OF REGISTRATION  
IN PHARMACY

  
Joanne M. Trifone, R.Ph.  
President

Date: July 9, 2010

EFFECTIVE DATE OF SUSPENSION: 3/29/10

Dec. No. 2349