

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Gene Svirskiy)
PH26669)
Expires 12/31/20)

PHA-2019-0021

**CONSENT AGREEMENT FOR
SUSPENSION FOLLOWED BY PROBATION**

The Massachusetts Board of Registration in Pharmacy ("Board") and Gene Svirskiy ("Licensee"), PH26669, 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. Licensee acknowledges the Board opened a complaint against his Massachusetts pharmacist license related to the conduct set forth in Paragraph 2, identified as Docket No. PHA-2019-0021.¹
2. The Board and Licensee acknowledge and agree to the following facts:
 - a. From approximately August 2007 until October 2012, Licensee worked as a pharmacist at New England Compounding Center ("NECC"), a pharmacy located in Framingham, Massachusetts.
 - b. On or about December 13, 2018, in the matter of *United States of America v. Gene Svirskiy*, Case Number 1:14CR10363-3 (D. Mass), Licensee was convicted on criminal charges with respect to conduct he engaged in while practicing as a pharmacist at NECC. These charges are:
 - i. Racketeering (1 count);
 - ii. Racketeering conspiracy (2 counts);
 - iii. Mail fraud (10 counts); and

¹ The term "license" applies to both a current license and the right to renew an expired license.

iv. Violations of the federal Food, Drug & Cosmetics Act (2 counts).

c. As a result, on or about May 31, 2019, Licensee was sentenced to prison for 30 months followed by one year of supervised release.

3. The Board and Licensee acknowledge and agree that the facts described in Paragraph 2 warrant disciplinary action by the Board under M.G.L. c. 112, §§ 42A & 61 and 247 CMR 10.03(1)(b), (k), (l), (m), (n), (u), (v), (w) & (x).
4. This Consent Agreement for Suspension followed by Probation supersedes the Non-Disciplinary Consent Agreement for Stayed Probation, dated September 5, 2018, related to Complaint PHA-2017-0125.
5. The Licensee agrees to SUSPENSION of his Pharmacist License for no less two years and six (6) months ("Suspension Period"), commencing on July 10, 2019. After the Suspension Period, the Licensee's pharmacist license will be automatically reinstated. Upon reinstatement, the Licensee's pharmacist license will immediately be placed on Probation in accordance with Paragraph 6 of this Agreement.
6. After the Suspension Period, Licensee agrees that his license shall be placed on PROBATION for no less than three (3) years ("Probationary Period").
7. During the Probationary Period, the Licensee agrees that he shall comply in all material respects with all laws and regulations governing the practice of pharmacy and the United States Pharmacopeia.
8. During the Probationary Period, the Licensee further agrees to the following:
 - a. Licensee will not practice as a pharmacist until he achieves a passing score on the MPJE examination.
 - b. Licensee may not serve as Manager of Record of any pharmacy.
 - c. Licensee may not supervise pharmacy interns.

- d. Licensee may not engage in sterile compounding without express, written approval from the Board.
9. The Board agrees that in return for Licensee's execution and successful compliance with the requirements of this Agreement it will not prosecute the Complaint.
10. If the Licensee has complied to the Board's satisfaction with all the requirements contained in this Agreement, the Probationary Period will terminate on or about January 10, 2025 upon written notice to the Licensee from the Board².
11. If the Licensee does not materially comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint³ during the Probationary Period, the Licensee agrees to the following:
- a. The Board may upon written notice to the Licensee, 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 Licensee's pharmacist license.

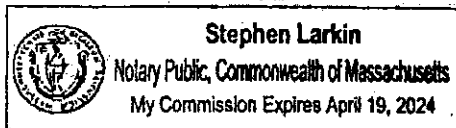
² In all instances where this Agreement specifies written notice to the Licensee from the Board, such notice shall be sent to the Licensee's address of record.

³ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date concerning acts, omissions, or events occurring after the Effective Date, which (1) alleges that the Licensee engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Licensee shall have an opportunity to respond.

- b. If the Board suspends the Licensee's pharmacy license pursuant to Paragraph 11(a)(iii), the suspension shall remain in effect until:
- i. the Board provides Licensee written notice that the Probationary Period is to be resumed and under what terms; or
 - ii. the Board and Licensee 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.
12. Licensee agrees that if the Board suspends his pharmacist license in accordance with Paragraph 11, he will immediately return his current Massachusetts pharmacist license to the Board, by hand or certified mail. Licensee further agrees that upon said suspension, he will no longer be authorized to practice as a pharmacist in the Commonwealth of Massachusetts and shall not in any way represent himself as a pharmacist until such time as the Board reinstates his pharmacist license or right to renew such license.
13. Licensee understands that he has a right to formal adjudicatory hearing concerning the Complaint 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, M.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 Complaints.
14. The Licensee acknowledges that he has been represented by legal counsel in connection with the Complaint and this Agreement.
15. 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.

16. The Licensee certifies that he has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a voluntary and final act and not subject to reconsideration, appeal or judicial review.

S. Larkin 10/7/2020 [Signature] 10/7/2020
Witness (sign and date) Gene Svirskiy (sign and date)



[Signature]
David Sencabaugh, R. Ph.
Executive Director
Board of Registration in Pharmacy
12-11-20
Effective Date of Probation Agreement

Fully Signed Agreement Sent to Licensee on 12-11-20 by
Certified
Mail No. 7020-1810-0002-3137-6515