

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION IN PHARMACY

Received

In the Matter of)
Heather M. Wunschel, R.Ph.)
Pharmacist Registration No. 23381)
_____)

Docket No. PH-07-100

BOARD OF
PHARMACY

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and Heather M. Wunschel, R.Ph. ("Registrant"), a pharmacist registered by the Board (Pharmacist Registration No. 23381), 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-07-100 (the "Complaint").
2. The Registrant agrees that this Agreement has been entered into as a result of her admission to the diversion, for personal use, of the controlled substances; Hydrocodone/APAP (approximately 2,680 units; Lorazepam 0.5 mg. and Suboxone, over an 18 month period concluding on or about May 2007 while employed at Walgreens Pharmacy #9233, 225 Boston Turnpike Road, Shrewsbury, MA 01905
3. The Registrant has entered into a contract with the Massachusetts Professional Recovery System ("MPRS") dated August 7, 2007 ("Contract"), the conditions of the Contract being 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 Contract for the five year duration of the Contract ("Contract Period") unless sooner dissolved by the MPRS Committee ("Committee") and the Board;

- c. the Registrant agrees 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 her pharmacist license to the Board (the "Surrender Period"). After the first twelve months of the Contract Period, Registrant may petition the Board to terminate the Surrender Period. Registrant shall be required to be in compliance with the terms and conditions of the Contract and this Agreement to petition the Board to terminate the Surrender Period. The Board may determine that the Surrender Period shall be extended for an additional twelve month period or such longer period as the Board may determine to be appropriate. At the time of any petition to terminate the Probation Period, the Board will consider all information pertaining to Registrant's fitness to resume the practice of pharmacy, including any criminal history or pending criminal matters occurring after the date of this Agreement. If the Board determines that Registrant is 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 four year period or such other period determined appropriate by the Board, commencing on the date of the termination of the Surrender Period (the "Probation Period"). 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 Surrender Period. The Board will not consider such a petition without a recommendation by the MPRS Committee;
- d. the Registrant agrees to return a signed copy of this Agreement to the Board within ten (10) days of receipt.

5. 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 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 and all information, reports and records relating to her MPRS contract 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 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 she has successfully completed the Contract; and
- c. 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 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 as set forth in Paragraph 12, or any violation of the applicable laws, rules and regulations governing the practice of pharmacy, Registrant shall be required to IMMEDIATELY SURRENDER her pharmacist license to the Board without the requirement of any adjudicatory proceedings pursuant to G.L. c. 30A.

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-07-100 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

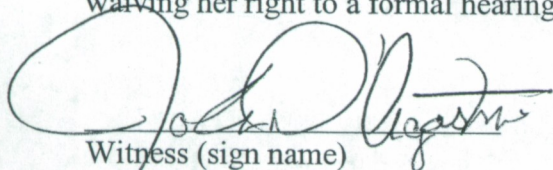
Board to be a violation of this Agreement requiring Registrant to IMMEDIATELY SURRENDER her license to the Board:

- 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.


13. The Registrant understands and agrees that her 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 her 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.


Witness (sign name)

John D Agostino
Witness (print name)


Heather M. Wunschel, R.Ph.

Date: 8/22/07

BOARD OF REGISTRATION
IN PHARMACY

Decision No. 1616

Eff. Date: 8/7/07

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

Date: 8/7/07

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of
Heather M. Wunschel

Docket No. PH-07-100

MPRS CONTINGENT SURRENDER AGREEMENT

The Massachusetts Board of Registration in Pharmacy ("Board") and Heather M. Wunschel ("Licensee"), a Pharmacist licensed by the Board (No. 23381), 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 understands that entering into this MPRS Contingent Surrender Agreement ("Contingent Surrender Agreement" or "Agreement") with the Board is a condition to licensure as a pharmacist by the Board.
2. The Licensee understands that this Agreement is a contingent agreement and, as such, shall only become effective if she *does not* successfully complete the Massachusetts Professional Recovery System (MPRS), as described in Paragraph 3. The Licensee further understands that this Agreement shall be maintained in her MPRS file until it is either nullified by her successful completion of the MPRS or it is made effective by her failure to successfully complete the MPRS.
3. The Licensee acknowledges that she has agreed to complete the MPRS and to comply with all of the terms and conditions in her MPRS Contract. The Licensee hereby acknowledges and agrees that if she *does not* successfully complete the MPRS, either by withdrawal from the MPRS or by termination from the MPRS for noncompliance with her MPRS Contract, she will no longer be a participant in the MPRS *and* that pursuant to this Agreement, she has agreed that the SURRENDER of her license shall be effective without the requirement of any further action by the Licensee or the Board. In such event, the date upon which this Agreement and her 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 Licensee by certified mail ("Effective Date"), or such earlier date as may be determined by the Board.
4. The Licensee and the Board acknowledge and agree this Agreement is entered into in accordance with that Consent Agreement entered into by the Licensee and

the Board in resolution of Complaint Docket No. PH-07-100 ("Consent Agreement") and required as a condition for licensure as a pharmacist by the Board.

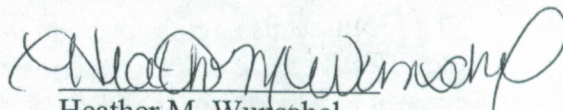
5. The Licensee also acknowledges and agrees that if this Agreement becomes effective:
 - (a) she shall immediately surrender her pharmacist license to the Board, in accordance with the requirements of Paragraphs 6 and 7; and
 - (b) such license surrender shall be for conduct in violation of M.G.L. c. 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 247 CMR 9.01(1) and 9.01(6), as set forth in the Consent Agreement.
6. The Licensee understands that as of the Effective Date of this Agreement and her pharmacist license surrender, she will no longer be authorized by law to engage in the practice of pharmacy in the Commonwealth. The Licensee agrees that she may not hold herself out as a pharmacist from the Effective Date of this Agreement and her pharmacist license surrender until the date the Board reinstates her license in accordance with the procedures set forth in here in. This includes, but is not limited to, seeking and/or accepting a paid or voluntary position as a pharmacist. The Licensee further understands that should she 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 said reinstatement of her 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 Licensee understands that any surrender of her 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 Licensee may petition the Board in writing for reinstatement of her pharmacist license. With such petition, the Licensee shall submit documentation satisfactory to the Board of her ability to practice pharmacy in a safe and competent manner. Such documentation shall include, but is not limited to, documentation of her 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 Licensee also agrees that she may be required to appear in person before the Board in connection with any request for license reinstatement. If the Licensee petitions the Board for reinstatement of her license, the Board may choose to reinstate said license if it determines that reinstatement is in the best interests of the public at large.
8. The Licensee agrees that together with any petition for license reinstatement she 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 she 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 her sponsor and signatures verifying this required attendance;
- c. Documentation verifying that she 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 Licensee, 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 Licensee's progress in therapy and her 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 Licensee's sustained recovery from substance abuse, dependence and addiction;
- d. Written verification from her primary medical care provider and any other licensed health care professional(s) with whom she may have consulted, written within thirty (30) days preceding any petition for license reinstatement, that the Licensee 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 Licensee before any court or administrative body including, but not limited to, documentation that *at least one (1) year prior to any petition for reinstatement* she satisfactorily completed all court-ordered requirements imposed on her in connection with any criminal conviction or matter, as well as authorization from the Licensee necessary for the Board to obtain a Criminal Offender Record Information (CORI) Report of her conducted by the Massachusetts Criminal History Systems Board; and
- f. If employed during the one (1) year immediately prior to her petition for reinstatement, have each employer during said year submit directly to the

Board on official letterhead a performance evaluation that reviews the Licensee's attendance, general reliability, and overall job performance.

9. The Licensee also agrees that any reinstatement of her license by the Board after the Effective Date of this Agreement may be conditioned upon entering into a consent agreement for the PROBATION of her 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 Licensee successfully completes and is discharged from the MPRS, this Agreement will be nullified and will have no further force and effect.
11. The Licensee 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 Licensee understands that if she *does not* successfully complete the MPRS and this Agreement becomes effective, the surrender of her license pursuant to this Agreement shall be a final act depriving her of all privileges of registration as a pharmacist in the Commonwealth and shall not be subject to any reconsideration or judicial review.
13. The Licensee states that she has used legal counsel in connection with the decision to enter into this Agreement or, if she has not used legal counsel, that the decision not to use legal counsel has been one taken of her own free will.
14. The Licensee certifies that she has read, understood, and accepted each and every paragraph of this document entitled "MPRS Contingent Surrender Agreement." The Licensee understands that by signing this MPRS Contingent Surrender Agreement she is knowingly and voluntarily waiving any rights she 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 her 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.*


Heather M. Wunschel

Date: 8/22/07

BOARD OF REGISTRATION
IN PHARMACY

By: James T. DeVita

Effective Date: 8/7/07