

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Israel P. Aker)
PH26335)

Docket No. PHA-2014-0191

POST SUSPENSION CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Pharmacy ("Board") and Israel P. Aker ("Licensee"), a pharmacist licensed by the Board, Registration No. PH26335, 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 agrees that this Post Suspension Consent Agreement for Probation ("Agreement") will supersede the Consent Agreement for Suspension dated, May 22, 2015. Further, the Licensee agrees that this Agreement has been executed as a result of the Board's:
 - a. receipt and investigation of a complaint filed against him, Docket PHA-2014-0191, which resulted in the suspension of his pharmacist license, pursuant to a Consent Agreement for Suspension with the Board effective May 22, 2015 in resolution of the complaint; and
 - b. consideration of the Licensee's request for license reinstatement and documentation he submitted pursuant to the requirements of the Suspension Agreement referenced in the subparagraph immediately above.
2. The Licensee admitted that on or about July 7, 2014, while employed as a pharmacist at Omnicare of Northern Massachusetts, located at 360 Audubon Road in Wakefield, MA, he diverted approximately 157 tablets of hydrocodone/apap 10/325mg for which he did not have a valid prescription.
3. The Board and the Licensee acknowledge and agree the conduct described in Paragraph 2 is grounds for discipline by the Board pursuant to M.G.L. c. 112, §§ 42A & 61 and 247 CMR 10.03.
4. The Licensee agrees that his pharmacist license shall be placed on PROBATION for 4 years, beginning on the date the Board signs this Agreement ("Effective Date").

Israel Aker
PH26335
PHA-2014-0191

5. During the Probationary Period, the Licensee further agrees that he shall comply with all of the following requirements to the Board's satisfaction:
 - a. Comply with all laws and regulations governing the practice of pharmacy and not engage in any continued or further conduct such as that set forth in Paragraph 2.
 - b. Notify the Board in writing within ten (10) days of each change in his name and/or address.
 - c. Timely renew his registration.
 - d. Submit directly to the Board, according to the conditions and procedures outlined in Attachment A of this Agreement, the results of random, supervised urine tests for substances of abuse, collected from the Licensee no less than fifteen (15) times per year during the Probationary Period, all of which are required to be negative.
 - e. Abstain from the use of alcohol, controlled substances, substances of abuse, and substances with potential for abuse.
 - f. If prescribed any controlled substance, notify the Board within three (3) days and arrange for the prescriber to submit immediately thereafter and directly to the Board a written statement of the kind and amount of each controlled substance prescribed with medical necessity for each such prescription.
6. During the Probationary Period, the Licensee further agrees that he shall participate in and comply with the Massachusetts Professional Recovery System ("MPRS") program.
7. If and when the Board determines that the Licensee has complied to the Board's satisfaction with all the requirements contained in this Agreement and the MPRS Program, the Probationary Period will terminate upon written notice to the Licensee from the Board¹.

¹ 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.

8. If the Licensee does not comply with each requirement of this Agreement and the MPRS Program, or if the Board opens a Subsequent Complaint² 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;
 - ii. MODIFY the Probation Agreement requirements; and/or
 - iii. IMMEDIATELY SUSPEND the Licensee's registration.
 - b. If the Board suspends the Licensee's registration pursuant to Paragraph 8(a)(iii), the suspension shall remain in effect until:
 - i. the Board gives the Licensee written notice that the Probationary Period is to be resumed and under what terms;
 - ii. the Board and the 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.
9. The Licensee agrees that if the Board suspends his license in accordance with Paragraph 8, he will immediately return his current Massachusetts license to practice as pharmacist to the Board, by hand or certified mail. The Licensee further agrees that upon suspension, he will no longer be authorized to engage in the practice of pharmacy in the Commonwealth of Massachusetts and shall not in any way represent himself as a pharmacist until such time as the Board reinstates his license³.
10. The Licensee agrees that when he executed the original Consent Agreement for Suspension, effective on May 22, 2015, he knowingly and voluntarily waived his right to a formal adjudication concerning the allegations against him in the complaints, the rights that he would have possessed during such adjudication 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 to all other rights as set forth in the Massachusetts Administrative Procedures Act, M.G.L. c. 30A,

² The term "Subsequent Complaint" applies to a complaint opened 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.

³ Any evidence of unlicensed practice or misrepresentation as a pharmacist after the Board has notified the Licensee of his license suspension shall be grounds for further disciplinary action by the Board and the Board's referral of the matter to the appropriate law enforcement authorities for prosecution.

and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* The Licensee further understands and agrees that in executing this document entitled "Post Suspension Consent Agreement for Probation," he is knowingly and voluntarily waiving any rights he has to a formal adjudication concerning the Board's action on his request for termination of his surrender of his pharmacist license in connection with the above-captioned complaint, the rights that he would possess during such an adjudication and to those other rights listed above.

11. The Licensee acknowledges that he has been at all times free to seek and use legal counsel in connection with the Complaint and this Agreement.
12. The Licensee acknowledges that after the Effective Date, the Agreement constitutes a public record subject to the Commonwealth of Massachusetts' Public Records Law, M.G.L. c. 4, § 7.
13. 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.

Harold Wolfe 2/25/16
Witness (sign and date)

Israel P. Aker 2/25/16
Israel P. Aker
(sign and date)

David Sencabaugh
David Sencabaugh, R. Ph.
Executive Director
Board of Registration in Pharmacy

2/25/16
Effective Date

Fully Signed Agreement Sent to Licensee on 2/25/16 by
Certified Mail No. 7615 1520 0000 4031 3181

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF LICENSE
IN PHARMACY

PHARMACY
PHARMACY
PHARMACY

In the Matter of)
Israel Aker)
License No. PH26335)
Expired 12/31/2014)

PHA-2014-0191

**CONSENT AGREEMENT FOR
SUSPENSION FOLLOWED BY PROBATION**

The Massachusetts Board of Registration in Pharmacy ("Board") and Israel Akar ("Licensee"), a Pharmacist licensed by the Board, License No. PH26335, 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 the Board has opened a complaint against his Massachusetts Pharmacist license related to the conduct set forth in paragraph 2, identified as Docket No. PHA-2014-0191 ("the Complaint").¹
2. The Board and the Licensee acknowledge and agree to the following facts:
 - a. On or about July 7, 2014, Licensee was employed as a pharmacist at Omnicare of Northern Massachusetts, located at 360 Audubon Road in Wakefield, Massachusetts.
 - b. On or about July 7, 2014, Licensee diverted approximately 157 tablets of hydrocodone/apap 10/325 mg. Licensee did not have a valid prescription for said hydrocodone.
3. The Licensee agrees the conduct described in Paragraph 2 constitutes a violation of M.G.L. c. 94C, § 34 and warrants disciplinary action by the Board under M.G.L. c. 112, §§ 42A and 61, 247 CMR 10.03(1)(h), and 247 CMR 10.03(1)(x).

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

4. The Licensee agrees to a SUSPENSION his license for no less than four (4) months ("Suspension Period") and to refrain from practicing as a pharmacist and from working in any pharmacy-related setting in Massachusetts, commencing with the date on which the Board signs this Agreement ("Effective Date"). The Licensee further agrees to immediately return his original Massachusetts pharmacist registration to the Board.

5. After the Suspension 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 license. 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. Documentation demonstrating that the Licensee has entered into a contract with the Massachusetts Professional Recovery System ("MPRS").
 - c. Documentation from the MPRS coordinator that (1) verifies that the Licensee has participated in and remained in compliance with MPRS, and (2) makes recommendations concerning reinstatement, probation length, and probation terms.
 - d. 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").²

² If the Licensee has not been employed during the year immediately prior to the petition date, he shall submit an affidavit to the Board so attesting.

Israel Aker
PH26335
PHA-2014-0191

- e. Authorization for the Board to obtain a Criminal Offender Record Information ("CORI") report of the Licensee conducted by the Massachusetts Criminal History Systems Board.
 - f. 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 2.³ 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.
 - g. 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 license status and discipline history, and verifying that his pharmacist license is, or is eligible to be, in good standing and free of any restrictions or conditions.
6. If and when the Board determines the Licensee has complied to the Board's satisfaction with all the requirements contained in Paragraph 5, the Board shall send written notice to the Licensee⁴ which shall terminate the Suspension Period. The Licensee understands and agrees that his license shall be placed on PROBATION for no less than four (4) years ("Probationary Period") commencing immediately upon the date of reinstatement. The Board will determine additional terms and conditions for the Probationary Period at the time of reinstatement. The Probationary Period terms shall include continued participation in the MPRS program.
7. The Board agrees that in return for the Licensee's execution and successful compliance with all the requirements of this Agreement it will not prosecute the Complaint.

³ If there have been no criminal or administrative matters against the Licensee arising from or in any way related to the conduct identified in Paragraph 2, the Licensee shall submit an affidavit so attesting.

⁴ 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.

Israel Aker
PH26335
PHA-2014-0191

8. The Licensee understands that he has a right to formal adjudicatory hearing concerning the Complaints 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 Complaint.
9. The Licensee acknowledges that he has been at all times free to seek and use legal counsel in connection with the Complaint and this Agreement.
10. 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.
11. 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.

Israel Aker 5/13/15
 Witness (sign and date)

Israel Aker
 (sign and date) 5/13/15

David Sencabaugh (Cons per Admin Policy 13-03)
 David Sencabaugh, R. Ph.
 Executive Director
 Board of License in Pharmacy

5-22-15
 Effective Date

Fully Signed Agreement Sent to Licensee on 5/22/15 by
 Certified Mail No. 70092250000181249203

Israel Aker
 PH26335
 PHA-2014-0191

