

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

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In the Matter of )  
Jake P. Nichols, R.Ph. )  
PH Registration No. 24752 )  
Registration Expired 12/31/2010 )  
\_\_\_\_\_ )

PHA-2010-0050 & PHA-2010-0115

**POST SURRENDER CONSENT AGREEMENT FOR PROBATION**

The Massachusetts Board of Registration in Pharmacy (Board) and Jake P. Nichols (Registrant) a Pharmacist licensed by the Board Registration No. PH24752, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Registrant's record maintained by the Board.

1. The Registrant agrees that this Post-Surrender Consent Agreement for Probation ("Agreement") will supersede any and all previous agreements that he has entered into with the Board. Further, the Registrant 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-2010-0050, which resulted in the surrender of his pharmacy license, pursuant to a Consent Agreement for Voluntary Surrender with the Board effective April 1, 2010 in resolution of the complaint;
  - b. receipt and investigation of a second complaint filed against him, Docket PHA-2010-0115, for similar conduct, during the same period of time, as in the complaint referenced in paragraph a above, Docket No. PHA-2010-0050; and
  - c. consideration of the Registrant's request for license reinstatement and documentation that he submitted verifying that all criminal matters against him are closed with no convictions, and he successfully completed the Massachusetts Professional Recovery System ("MPRS") program effective August 13, 2015.
2. The Registrant admits that from December 2009 to April 1, 2010, while he was the Manager of Record at OncoMed Pharmaceutical Services in Waltham, Massachusetts, he diverted for personal use, federally controlled substances in Schedules CII - CV and Massachusetts controlled substances in schedule VI, and passed numerous fraudulent prescriptions using the names and DEA numbers of two physicians at Boston Medical Center. The Registrant acknowledges that the foregoing facts warranted disciplinary action by the Board pursuant to M.G.L., c. 112, §§42A and 61,

and Code of Massachusetts Regulations at 247 CMR 9.01 (1), (2), (5), (6) and (9), and 247 CMR 10.03 (1)(a), (b), (e), (h), (k), (l), (u), (v), (w) and (x).

3. The Registrant agrees that his Pharmacist registration shall be placed on **PROBATION** for no less than four (4) years commencing with the date on which the Board signs this Agreement (Effective Date).
4. During the Probationary Period, the Registrant 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.
5. If and when the Board determines that the Registrant has complied to the Board's satisfaction with all the requirements contained in this Agreement, the Probation Period will terminate no earlier than four (4) years after the Effective Date upon written notice to the Registrant from the Board<sup>1</sup>.
6. If the Registrant does not comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint<sup>2</sup> during the Probation Period, the Registrant agrees to the following:
  - a. The Board may upon written notice to the Registrant, 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 Registrant's registration.
  - b. If the Board suspends the Registrant's registration pursuant to Paragraph 6(a)(iii), the suspension shall remain in effect until:
    - i. the Board gives the Registrant written notice that the Probationary Period is to be resumed and under what terms; or
    - ii. the Board and the Registrant sign a subsequent agreement; or

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<sup>1</sup> In all instances where this Agreement specifies written notice to the Registrant from the Board, such notice shall be sent to the Registrant's address of record.

<sup>2</sup> The term "Subsequent Complaint" applies to a complaint opened after the Effective Date, which (1) alleges that the Registrant engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Registrant shall have an opportunity to respond.

- 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.
7. The Registrant agrees that if the Board suspends his registration in accordance with Paragraph 6, he will immediately return his current Massachusetts registration to practice as Pharmacist to the Board, by hand or certified mail. The Registrant further agrees that upon suspension, he will no longer be authorized to engage in 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 registration<sup>3</sup>.
8. The Registrant agrees that when he executed the original Consent Agreement for Voluntary Surrender that he entered into with the Board in final resolution of the above-captioned complaint, Docket No. PHA-2010-0050 effective on April 1, 2010, he knowingly and voluntarily waived his right to a formal adjudication concerning the allegations against him in the complaint, 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, G. L. c. 30A, 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-Surrender 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 the surrender of his pharmacy 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.
9. The Registrant acknowledges that he has been at all times free to seek and use legal counsel in connection with the Complaints and this Agreement.
10. The Registrant acknowledges that after the Effective Date, the Agreement constitutes a public record subject to the Commonwealth of Massachusetts' Public Records Law, G.L. ch. 4, §7.
11. The Registrant certifies that he has read this Agreement. The Registrant understands and agrees that entering into this Agreement is a voluntary and final act and not subject to reconsideration, appeal or judicial review.

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<sup>3</sup>Any evidence of unlicensed practice or misrepresentation as a Pharmacist after the Board has notified the Registrant of his registration 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.

*Ralph Nichols*  
Witness (sign and date)

*J* 10/11/15  
Jake P. Nichols  
Registrant (sign and date)

RALPH NICHOLS  
Witness (print name)

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

10/7/2015  
Effective Date of Probation Agreement

Fully Signed Agreement Sent to Registrant on 10/8/2015 by  
Certified Mail No. 7009-1680-0001-1520-2921