

COMMONWEALTH OF MASSACHUSETTS

Received

JUN 24 2008

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
James J. McQuaid, R.Ph.)
Pharmacist Registration No. 18406)
Exp. 12/31/08)

Docket No. PH-08-032

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and James J. McQuaid, R.Ph. ("Registrant"), a pharmacist registered by the Board (Pharmacist Registration No. 18406), 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 resolution of the complaint pending against Registrant before the Board as Docket No. PH-08-032 (the "Complaint").
2. The Registrant agrees that this Agreement has been entered into as a result of his license suspension by the State of Maine Board of Pharmacy (License No. PR4934) on or about June 19, 2007. A copy of State of Maine Board of Pharmacy ("Maine Board") *Second Consent Agreement* dated October 18, 2007 in the matter of Case No. 2007-PHA-3617 (the "Maine Agreement") setting forth the terms and conditions of the December 18, 2007 reinstatement of Registrant's Maine Pharmacist license is attached hereto. The Maine Board REPRIMANDED Registrant's Maine Pharmacist license; suspended his license pending compliance with certain CONDITIONS OF LICENSURE as set forth in the Maine Agreement.
3. The Board has reviewed the Investigative file for Complaint Docket No. PH-08-032 and accepted the terms and conditions of the Maine Agreement as the terms and conditions for the resolution of the Complaint.
4. Accordingly, the Registrant freely agrees to the following:
 - a. that his conduct that was the basis for the discipline of his Maine Pharmacist license constitutes professional misconduct warranting Board disciplinary action regarding his Massachusetts Pharmacist registration No. 18406, pursuant to G.L. c. 112, § 61 and Board Regulations 247 CMR 9.01(1) and 10.03(g);
 - b. to abide by all of the terms and conditions of the Maine Agreement, the terms and conditions of same being hereby incorporated into the terms of this Agreement;

- c. The Board will place Registrant's license on probationary status, commencing on the effective date of this Agreement and continuing until such time as the Maine Board returns his license to good standing (the "Probation Period");
 - d. 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 Probation Period. The Board will not consider such a petition without a recommendation from the Maine Board; and
 - e. The Registrant returns a fully executed copy of this Agreement to the Board within ten (10) days of receipt.
5. Registrant agrees that the termination of the Probation Period shall be granted only if he 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 submitting evidence of the Registrant's license in good standing by the Maine Board. The Board may request a conference to discuss the merits of such request;
 - c. Registrant has fully complied with all terms and conditions of this Agreement and meets all other requirements for licensure.
6. 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.
7. 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.
8. The Registrant understands and agrees that his 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.*
9. 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 the Maine Agreement, or any violation of the applicable laws, rules and regulations governing the practice of pharmacy, the Board may seek to immediately suspend the Registrant's license to practice pharmacy without the requirement of further proceedings pursuant to G.L. c. 30A, for not less than ninety (90) days and continuing until full compliance with this Agreement and the Contract is achieved by the Registrant.
10. The Registrant understands and agrees that should he 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 Licensee described in Paragraph 2

and more fully described in Complaint Docket No. PH-08-032 in determining an appropriate sanction for the subsequent offense.

11. 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.

12. The Registrant states that he has used legal counsel in connection with his decision to enter into this Agreement or, if he did not, that he had an opportunity to do so and that his decision to enter into this Agreement was made of his own free will.

13. 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.

Jean McQuaid
Witness (sign name)

Jean McQuaid
Witness (print name)

James J. McQuaid, R.Ph.
James J. McQuaid, R.Ph.

Effective Date: 18 June 2007

BOARD OF REGISTRATION
IN PHARMACY

By: Sophia Pasedis
Sophia Pasedis, Pharm.D., R.Ph.
President

Date: 6/24/08

BOARD USE: Decision No. 1775