

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY NOV 10 2010

In the Matter of)

JENNIFER M. GUTIERREZ)

Pharmacy Technician No. PT3758)

License Expires 10/17/2011)

Docket No. PHA-2010-0135

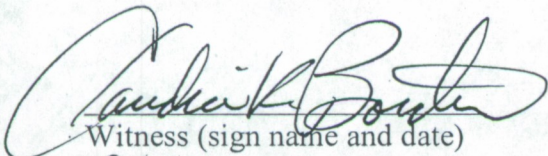
CONSENT AGREEMENT

The **Board of Registration in Pharmacy** (Board) and **Jennifer M. Gutierrez** (Registrant), a pharmacy technician registered by the Board (PT 3758), 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) to resolve complaint (Docket No. PHA-2010-0135) pending before the Board regarding Registrant (Complaint).
2. The Registrant acknowledges and agrees that on the *Pharmacy Technician Registration Form* (Form) that Registrant signed on December 12, 2002 and submitted to the Board (received by the Board on January 3, 2003), Registrant failed to disclose that on August 17, 1999, Registrant had plead guilty (Barnstable Superior Court Docket Nos. BACR 1998-48006 and 48007) to charges of "Distribute/Dispense Class B Substance (cocaine)" (G.L. c. 94C, § 32A(a)); sentenced to two years probation with special conditions including random screening; terminating August 21, 2001) when she answered "No" in response to Form Question D. 3) "Have you ever been convicted of a felony or misdemeanor in the U.S. or any foreign jurisdiction, other than a traffic violation of less than a \$100 was assessed?"
3. Accordingly, to resolve the Complaint without further proceedings before the Board, Registrant agrees to the following:
 - a. that Registrant's conduct as described in Paragraph 2 above constitutes gross misconduct warranting disciplinary action by the Board pursuant to G.L. c. 112, § 61 and Board Regulations 247 CMR 10.03(1), subsections (l), (o) and (p);
 - b. That commencing on the date the Board executes the Agreement (Effective Date), the Board will **SUSPEND** Registrant's Pharmacy Technician registration (PT 3758) for a minimum twelve (12) month period (Suspension Period); and
 - c. that the Board will terminate of the Suspension Period only if Registrant has met the following conditions:

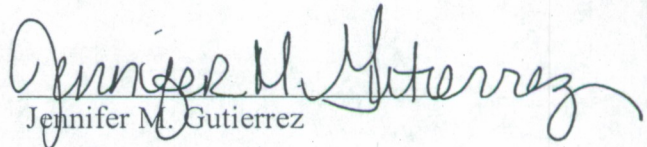
- i. Registrant files a written petition with the Board requesting termination of the Suspension Period;
 - ii. During the Suspension Period, Registrant shall have completed at least ten (10) continuing education credits (CEs) in the area of Pharmacy Law and general pharmacy practice;
 - ii. Registrant provides any information that may be requested by the Board regarding Registrant's employment or other activities during the Suspension Period; and
 - iii. Registrant appears before the Board regarding her petition if so requested by the Board.
4. Provided the Board has determined that Registrant has complied with the requirements of Paragraph 3 of this Agreement. to terminate the Suspension Period, the Board will reinstate Registrant's license on PROBATIONARY STATUS, which status shall continue for a minimum three (3) year period (Probation Period), with any terms and conditions as the Board may deem necessary. Termination of the Probation Period shall be governed by Paragraph 5 of this Agreement.
5. Registrant agrees that termination of the Probation Period shall be granted only if Registrant applies in writing to the Board for the termination of the Probation Period. The Board may schedule a conference to discuss the merits of such request.
6. The Registrant understands and agrees that should Registrant be found to have violated any of the statutes and/or regulations governing the performance of pharmacy technician in the Commonwealth for conduct occurring during the Probation Period, the Board may consider the conduct of the Registrant described in Paragraph 2 in determining an appropriate sanction for the subsequent offense.
7. This Agreement and its contents shall be incorporated into the records maintained by the Board, are matters of public record, and are 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 abide by 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 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.

11. The Registrant states that she consulted legal counsel in connection with her decision to enter into this Agreement and if she has not, that she had an opportunity to do so.
12. 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 and date)

Claudia K. Borden
Witness (print name)

Notary exp. 1/2/16.


Jennifer M. Gutierrez

Date: 11/9/2010

BOARD OF REGISTRATION
IN PHARMACY

By: Joanne M. Trifone
Joanne M. Trifone, R.Ph.
President

Effective Date: 11/10/2010