

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF LICENSE
IN PHARMACY

)
In the Matter of)
Jimmy Palatty, R. Ph.)
License No. PH24275)
Expires December 31, 2018)
_____)

Docket No. PHA-2016-0009

**CONSENT AGREEMENT FOR
SUSPENSION FOLLOWED BY PROBATION**

The Massachusetts Board of Registration in Pharmacy ("Board") and Jimmy Palatty ("Licensee"), a Pharmacist licensed by the Board, license no. PH24275 ("License"), 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 License related to the conduct set forth in paragraph 2, identified as Docket No. PHA-2016-0009 ("the Complaint").
2. The Board and the Licensee acknowledge and agree to the following facts:
 - a. From at least September 2011 until December 4, 2015, Licensee was employed as a pharmacist at Boston Medical Center's outpatient pharmacy ("Pharmacy") located at 88 East Newton Street in Boston, Massachusetts.
 - b. From approximately December 2014 through November 2015, Licensee diverted approximately 1,100 tablets of oxycodone 30 mg from the Pharmacy for personal use. Licensee did not have a prescription for said oxycodone.
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).

4. The Licensee agrees to SUSPEND his license for no less than one (1) year ("Suspension Period") and to refrain from practicing as a pharmacist and 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 License 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. 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")¹.
 - c. Authorization for the Board to obtain a Criminal Offender Record Information ("CORI") report of the Licensee conducted by the Massachusetts Criminal History Systems Board.
 - d. Documentation that the Licensee has completed, at least one year prior to the petition date, all requirements imposed upon his in connection with all criminal and administrative matter(s) arising from, or related to, the conduct identified in Paragraph

¹ 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.

2.² 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.

- e. 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.
 - f. The results of random, supervised urine tests for substances of abuse that demonstrate abstinence from the use of alcohol, controlled substances, substances of abuse, and substances with potential for abuse, as described in Paragraph 7, below, and set forth in Attachment A.
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 Licensee³ 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.
7. During the Suspension Period and the Probationary Period, the Licensee further agrees that he shall comply with all of the following requirements to the Board's satisfaction:
- a. 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

² 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.

³ 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.

abuse, collected from the Licensee no less than fifteen (15) times per year, all of which are required to be negative.

- b. Abstain from the use of alcohol, controlled substances, substances of abuse, and substances with potential for abuse.
 - c. If prescribed any controlled substance, notify the Board within three (3) business 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.
8. Attachment A is incorporated by reference into this Agreement.
 9. 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.
 10. The Licensee understands that he has a right to formal adjudicatory hearing concerning the Complaint 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.
 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 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.
 13. The Licensee certifies that he has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a

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voluntary and final act and not subject to reconsideration, appeal or judicial review.

Ali 2-15-17
Witness (sign and date)

Jimmy Palatty 02/15/17
Jimmy Palatty
(sign and date)

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

3/2/2017
Effective Date

Fully Signed Agreement Sent to Licensee on 3/2/17 by

Certified Mail No. 7016 1370 0001 4117 1990

MASSACHUSETTS BOARD OF REGISTRATION IN PHARMACY

ATTACHMENT A

Guidelines for Pharmacists' Participation in Random Urine Drug Screens for Evaluation by the Massachusetts Board of Registration in Pharmacy (Board)

- I. Pharmacists who are required by a Board Agreement or Order to have random, supervised urine drug screens are expected to remain abstinent from all substances of abuse, including alcohol. It is a pharmacist's responsibility not to ingest any substance(s) that may produce a positive drug screen, including over-the-counter medications. Unless otherwise stated in a pharmacist's Board Agreement or Order, all pharmacists shall be randomly tested a minimum of fifteen (15) times per year.
- II. The Board designates one Drug Testing Management Company (DTMC).¹ The Board will accept only the results of urine drug screens that are performed under the auspices of the DTMC and reported directly to the Board.
- III. All costs related to a pharmacist's participation in the DTMC urine drug screening program are the responsibility of the participating pharmacist.
- IV. A pharmacist is expected to sign an agreement with the DTMC and to comply with all of the conditions and requirements of the agreement with the DTMC and any related policies, including without limitation, any requirements related to supervision of urine collection and/or temperature checks.
- V. No vacations from calling to test or from testing shall be approved. This does not mean that a pharmacist cannot take a vacation while participating in random urine screens; arrangements can be made thorough the DTMC to have urine screens done at approved laboratories throughout the continental U.S.
- VI. Failure to call the DTMC or failure to test when selected shall be considered non-compliance with the pharmacist's Board agreement or Order. Calls to the DTMC must be made between the hours of 5:00 a.m. and 1:00 p.m.
- VII. Failure to test when selected, and/or a positive drug screen that is confirmed by the Medical Review Officer (MRO) and that is not supported by appropriate documentation of medical necessity and a valid prescription shall be considered as a relapse in the pharmacist's abstinence. All prescriptions for any medication (including renewal prescriptions) must be submitted to the DTMC within five (5) days.
- VIII. Urine drug screen reports that show a low creatinine (<20 mg/dl) may be an indication of an adulterated or diluted specimen; further testing may be required.

¹ The current DTMC is First Lab. To contact First Lab call (800) 732-3784.

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- IX. Pharmacists who do not have a current MA nursing license and who are enrolled in urine drug screening with the DTMC for the purpose of documenting to the Board that they are in stable and sustained recovery from substance abuse, must provide written authorization to the DTMC to release to the Board a complete record of their participation in the drug screening program, including documentation of missed calls, no shows, test results and a full history report at the completion of their DTMC participation. During their DTMC participation, pharmacists who do not have a current MA nursing license for whatever reason (surrender, suspension, lapse, revocation) are expected to designate a monitor of their choosing (e.g. friend, family member, health care provider, AA sponsor) who will be authorized to receive test results from the DTMC. The Board does not monitor the testing of unlicensed individuals and will evaluate a pharmacist's participation in the DTMC only when the DTMC testing is completed and the pharmacist applies for license reinstatement. Unlicensed pharmacists should identify themselves as such to the DTMC and sign an individual agreement with the DTMC.
- X. Random supervised urine tests are done in panels which shall include, but are not limited to, each of the following substances:
- Ethanol and all ethanol products
 - Amphetamines
 - Barbiturates
 - Benzodiazepines
 - Buprenorphine
 - Cannabinoids
 - Cocaine (metabolite)
 - Opiates:
 - Codeine
 - Morphine
 - Hydromorphone
 - Hydrocodone
 - Oxycodone
 - Phencyclidine
 - Methadone
 - Propoxyphene
 - Meperidine
 - Tramadol
 - Suboxone