

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of
John E. O'Sullivan, Jr.
Pharmacist Registration No. PH18979

PH-07-092

POST SUSPENSION CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Pharmacy (Board) and John E. O'Sullivan, Jr. (Registrant), a Pharmacist licensed by the Board, Registration No. PH18979, 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 supercede 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 PH-07-092 which resulted in the surrender of his pharmacy licence, pursuant to a Surrender Agreement with the Board effective April 28, 2009, in resolution of the complaint; and
 - b. consideration of the Registrant's request for license reinstatement and documentation he submitted pursuant to the requirements of the Consent Agreement referenced in the subparagraph immediately above.
2. The Board and Registrant acknowledge and agree that substantial evidence exists which if proven at hearing would show that on multiple dates during the period commencing in 1999 continuing through 2007, he provided various amounts of prescription drugs without a prescription to an individual for use by the individual and the individual's wife. The Registrant acknowledges that the foregoing facts warranted disciplinary action by the Board under Mass. General Laws., ch. 42A and 61, and under 247 CMR 9.01 (1), (2) and (6); and 247 CMR 10.03(1)(a), (b), (e), (l), (u), (v) and (w)
3. The Board acknowledges receipt from the Registrant of the following items:
 - a. Documentation demonstrating that the Registrant completed fifteen (15) contact hours of continuing education, comprised of at least two (2) contact hours in pharmacy law and at least five (5) contact hours in live instruction, and in a timely manner for each of the two renewal cycles ending December 31, 2010 and December 31, 2012;
 - b. Insofar as the Registrant's documentation as specified in Paragraph 3a is deficient by one or more contact hours, documentation that the Registrant has completed 3 contact hours of continuing education for each such deficient hour of the corresponding type of course (law, live or home study); and

- c. Documentation demonstrating that the Registrant has retaken and obtained a passing score on the MPJE.

The Registrant and the Board acknowledge that the Board's receipt of the documentation identified in this paragraph is a precondition to be met by the Registrant prior to the Board's entry into this Agreement.

- 4. The Registrant agrees that his Pharmacist registration shall be placed on PROBATION for no less than two (2) years commencing with the date on which the Board signs this Agreement (Effective Date).
- 5. 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.
 - d. Refrain from serving in the capacity of Manager of Record
 - e. Work under direct supervision of a Registered Pharmacist for no less than three (3) months, and for a minimum of 300 hours.
 - i. The Registered Pharmacist supervising the Registrant must be registered as a pharmacist in Massachusetts and his or her registration must be in good standing;
 - ii. The Registrant must arrange for the supervising pharmacist to submit a letter directly to the Board within 90 days of the effective date. The supervising pharmacist must verify that he or she (1) holds a registration as a pharmacist in Massachusetts that is in good standing, (2) that he or she has read this Agreement, and (3) that he or she agrees to supervise the Registrant's practice as specified in this Agreement.
 - iii. The Registrant must arrange for the supervising pharmacist to submit a second letter directly to the Board within 90 days of the date of the letter provided pursuant to paragraph 5(d)(ii). In the second letter, the supervising pharmacist must describe the Registrants' practice during the supervisory period, including any violations of standards of practice that may have occurred during that time.
 - iv. The Registrant must for the supervising pharmacist to submit a subsequent letters directly to the Board at intervals no longer than every 90 days, describing the Registrants' practice during the supervisory period, including any violations of standards of practice that may have occurred during that

time, until such time as the Registrant completes the 300 hours of supervised practice.

6. 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 two (2) years after the Effective Date upon written notice to the Registrant from the Board¹.
7. If the Registrant does not comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint² 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 7(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
 - 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.
8. The Registrant agrees that if the Board suspends his registration in accordance with Paragraph 7, 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 registration³.
9. The Registrant agrees that when he executed the original Consent Agreement for Suspension that he entered into with the Board in final resolution of the above-captioned complaint, Docket No. PH-07-092 effective on April 28, 2009, he knowingly and

¹ 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.

² 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.

³ 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.

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, 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-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 suspension 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.

10. The Registrant acknowledges that he has been at all times free to seek and use legal counsel in connection with the Complaint and this Agreement.
11. 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.
12. 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.

WJ SO 4/11/14
Witness (sign and date)

John E. O'Sullivan, Jr. 4-11-14
Registrant (sign and date)

KELLY DONOHUE
Witness (print name)

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

May 2, 2014
Effective Date of Probation Agreement

Fully Signed Agreement Sent to Registrant on May 2, 2014 by Certified Mail
No. 7012 3460 0001 7331 3429

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
John E. O'Sullivan, Jr., R.Ph.)
Pharmacist Registration No. 18979)
_____)

Docket No. PH-07-092

VOLUNTARY SURRENDER AGREEMENT

The Board of Registration in Pharmacy ("Board") and John E. O'Sullivan, R.Ph. ("Registrant"), a pharmacist registered by the Board, (Pharmacist Registration No. 18979), do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the file of the Registrant which is maintained by the Board:

1. The parties enter into this Voluntary Surrender Agreement ("Agreement") in order to resolve the complaint pending against the Registrant before the Board as Docket No. PH-07-092 (the "Complaint").
2. Registrant acknowledges that substantial evidence exists which if proven at hearing would show that on multiple dates during the period commencing in 1999 and continuing through 2007, he provided various amounts of prescription drugs without a prescription to an individual (PH) for use by PH and his wife.
3. Registrant acknowledges that on October 30, 2007, the Board issued an Order of Summary Suspension ("Order") against his license and pursuant to that Order, Registrant surrendered his license to practice pharmacy on November 6, 2007. His license has been surrendered since that date.
4. Registrant acknowledges and agrees that the conduct described in Paragraph 2 constitutes violations of G.L. c. 94C, ss. 2, 15 and 33, subsec. (b); the recordkeeping requirements of Title 21 CFR 1304.4(h)(2); G.L. c. 112, ss. 61; and 247 CMR sections 9.01(1), 9.01(2), 9.01(6), 9.01(9), 10.03(1)(a), 10.03(1)(b), 10.03(1)(e), 10.03(1)(f), 10.03(1)(k), 10.03(1)(v), 10.03(1)(w) and 10.03(1)(x), and as such, is a basis for disciplinary action by the Board.
5. Accordingly, Registrant freely agrees to voluntarily surrender his license, and the Board agrees to accept the voluntary surrender of Registrant's license to practice pharmacy in

the Commonwealth of Massachusetts (License No. 18979) in resolution of the Complaint, commencing on the Effective Date of this Agreement. Such surrender shall be for an indefinite period and shall continue until the Board, in its discretion, determines that the Registrant is eligible to petition for the reinstatement of his license. The Board and the Registrant agree that the Board will not review and the Registrant may not request or file any petition for licensure with the Board during the four (4) year period following the date of execution of this Agreement by the Registrant. If at any time Registrant desires to seek licensure by the Board in the future, the Registrant acknowledges that the Board would:

- (a) require Registrant to complete all requirements for initial licensure in the Commonwealth, including but not limited to, examination, internship experience, and a Massachusetts Professional Recovery System (MPRS) evaluation, and depending upon the results of the MPRS evaluation, participation in MPRS for a minimum five (5) year period;
 - (b) consider Registrant's conduct as described in Paragraph 2 in reviewing any petition for licensure; and
 - (c) require Registrant to meet such additional terms and conditions as the Board may deem appropriate. Registrant acknowledges that the Board would impose monitoring and practice limitation conditions should the Board grant any petition for licensure in the future, including but not limited to, probationary status, MPRS participation, supervised practice and practice setting restrictions.
- 6. This Agreement and its contents shall be incorporated into the records maintained by the Board and 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 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.
 - 9. The Registrant states that he has used legal counsel in connection with his decision to enter into this Agreement.
 - 10. The Registrant certifies that he has read this document entitled "Voluntary Surrender 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 the court in the event of an adverse ruling, and all other rights set forth in the State Administrative Procedure Act, G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.*

Joseph J. Machera
Witness (sign name and date)
7/27/09

JOSEPH J. MACHERA
Witness (print name)

John E. O'Sullivan R.Ph.
John E. O'Sullivan, R.Ph.

BOARD OF REGISTRATION IN
PHARMACY

By: Joanne M. Trifone/smt
Joanne M. Trifone, R.Ph.
President Elect

Board Use: Board Decision ID No. 2043