

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of
JOHN J. CAREY III, R.Ph.
PH License No. 17893
Exp. 12/31/12

Docket No. PHA-2011-0062

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and **JOHN J. CAREY III, R.Ph.** ("Registrant"), a pharmacist registered by the Board (Pharmacist Registration No. 17893), 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 above-referenced Complaint Docket No. PHA-2011-0062 ("Complaint").
2. Registrant acknowledges and agrees that this Agreement has been entered into as a result of his admission to the diversion, for personal use, of controlled substances namely hydrodone/acetaminophen 7.5mg/500mg liquid and hydrocodone/chlorpheniramine liquid on or about March 9 and March 15, 2011, from Walgreens Pharmacy #3020 located at 196 Pleasant Street in Attleboro, Massachusetts, in violation of G.L. c. 112, § 61; 247 CMR 9.01 subsections (1), (2) and (6); and 247 CMR 10.03, subsections (1)(a); 10.03(1)(b); 10.03(1)(e); 10.03(1)(l); 10.03(1)(u); 10.03(1)(v); and 10.03(1)(w).
3. Accordingly, the Registrant freely agrees to the following:
 - a. Registrant agrees that his conduct described in Paragraph 2 above constitutes professional misconduct warranting Board disciplinary action pursuant to G.L. c. 112, § 61; 247 CMR 9.01 subsections (1), (2) and (6); and 247 CMR 10.03, subsections (1)(a); 10.03(1)(b); 10.03(1)(e); 10.03(1)(l); 10.03(1)(u); 10.03(1)(v); and 10.03(1)(w);
 - b. Registrant's license will be suspended for a minimum two-year period (Suspension Period), commencing April 18, 2011, during which time Registrant may not practice as a pharmacist or be employed by or provide services of any type on a premises licensed by the Board;
 - c. Registrant may not act as a pharmacist Manager of Record or Director of Pharmacy in any pharmacy setting;

- d. Registrant must take and successfully pass with a score of at least 75%, the Multistate Pharmacy Jurisprudence Examination (MPJE) within twelve (12) months of the Effective Date of this Agreement. Registrant must provide the Board with documentation of passing the MPJE;
- e. If the Registrant does not seek reinstatement prior to three-years from the Effective Date of this Agreement, Registrant will be required to achieve a passing score on the North American Pharmacy Licensing Examination (NAPLEX) and may also be required to complete retraining and course requirements and meet any other conditions for licensure as may be determined by the Board;
- f. Registrant shall be required to provide a copy of this Agreement to each employer where he is employed as a pharmacist or other pharmacy support position in any pharmacy setting. Registrant's employer(s) must provide written verification of receipt and review of this Agreement to the Board. Registrant shall provide notice to the Board of any change in employment status and information regarding the change in status, including voluntary (resignation) and involuntary (termination) changes in employment in any employment setting within twenty four hours of any change in employment. It shall be Registrant's responsibility to ensure all verifications (employers and prescribers) are provided to the Board as required hereunder;
- g. During the Suspension and Probation Period, or such longer period as may be required by the Board, Registrant must undergo Board-approved monitoring, including random drug/alcohol screening, such monitoring to commence as of the Effective Date of the Agreement. Registrant must arrange for the results of random, supervised urine tests for substances of abuse, collected from the Registrant no less than fifteen (15) times per year during the Suspension and Probation Period, in accordance with and as set forth in **Attachment A**, all of which tests must be negative. Registrant may not terminate screenings without prior approval of the Board;
- h. Registrant must refrain from the consumption of alcohol and the use of all controlled substances unless specifically prescribed by a treating physician and approved by the Board, who has been informed of the Registrant's history, for the purpose of prescribing for a legitimate medical purpose and in the usual course of the physician's practice;
- i. If prescribed any controlled substance, Registrant shall notify the Board within three (3) days and arrange for the prescriber to submit directly to the Board a written statement of the identity and amount of each controlled substance prescribed, and medical necessity for said prescription;
- j. That not sooner than twenty-four months from April 18, 2011, provided the conditions described in Paragraph 3 have been met, Registrant may petition the Board for the termination of the Suspension Period in accordance with Paragraph 5 hereof. If the Board terminates the Suspension Period, the Board will place

Registrant's license on Probationary Status for a minimum four (4) year period (Probation Period) with terms and conditions of the Probationary status to be determined by the Board; and

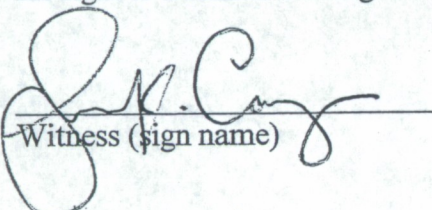
- k. the Registrant agrees to return a signed copy of this Agreement to the Board within ten (10) days of receipt.
4. During the Probation Period, Registrant acknowledges and agrees that he:
- a. May not self prescribe any controlled substance or enter into a collaborative practice agreement to practice collaborative drug therapy management (247 CMR 16.00) or personally fill or present for filling at any place of employment any personal prescription; and
 - b. Shall adhere to all laws and regulations pertaining to the dispensing, administration and distribution of controlled substances.
5. Registrant agrees that the termination of the Suspension and 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 Suspension and Probation Periods. The Board will consider any disciplinary matters or court proceedings not previously reviewed in its consideration of any petition. The Board may request a conference to discuss the merits of such request; and
 - b. 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 7, 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 any violation of the applicable laws, rules and regulations governing the practice of pharmacy, Registrant shall be required to IMMEDIATELY SURRENDER his pharmacist license to the Board without the requirement of any adjudicatory proceedings pursuant to G.L. c. 30A.

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 Registrant described in Paragraph 2 and more fully described in Complaint Docket No. PHA-2011-0062 in determining an appropriate sanction for the subsequent offense.

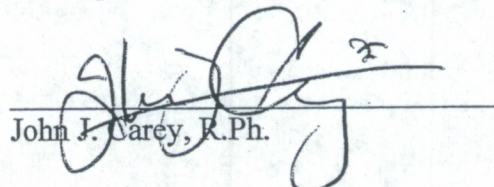
11. The Registrant understands and agrees that his decision to enter into this Agreement and to accept the terms and conditions herein described is a final act and is not subject to reconsideration or judicial review.

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.

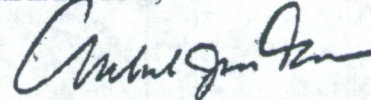

Witness (sign name)

Susan K. Carey
Witness (print name)


John J. Carey, R.Ph.

Effective Date: 3/20/2012

BOARD OF REGISTRATION
IN PHARMACY,

By: 
Michael J. Tocco, R.Ph., M. Ed.
President

Date: 3/20/12

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 twelve (12) times per year.
- II. The Board will accept only the results of urine drug screens that are performed under the auspices of **FirstLab**¹ and reported directly to the Board.
- III. All costs related to a Pharmacist's participation in **FirstLab's** urine drug screening program are the responsibility of the participating Pharmacist.
- IV. A Pharmacist is expected to sign an agreement with **FirstLab** and to comply with all of the conditions and requirements of the agreement with **FirstLab** 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 **FirstLab** to have urine screens done at approved laboratories throughout the continental U.S.
- VI. Failure to call **FirstLab** or failure to test when selected shall be considered non-compliance with the Pharmacist's Board agreement or Order. Calls to **FirstLab** 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 **FirstLab** 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 Contact Amanda Morrison at First Lab at 1-800-732-3784, 100 Highpoint Drive, Suite 102, Chalfont, PA 18914

- IX. Pharmacists who do not have a current MA Pharmacy license and who are enrolled in urine drug screening with **FirstLab** for the purpose of documenting to the Board that they are in stable and sustained recovery from substance abuse, must provide written authorization to **FirstLab** 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 **FirstLab** participation. During their participation, Pharmacists who do not have a current MA Pharmacy 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 **FirstLab**.
- 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