

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

In the Matter of  
John Joseph Carey, III  
Pharmacist Registration No. PH17893

PHA-2011-0062

POST SUSPENSION CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Pharmacy (Board) and John Joseph Carey, III (Registrant), a Pharmacist licensed by the Board, Registration No. PH17893, 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-Suspension 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 PHA-2011-0062, which resulted in the suspension of his pharmacy licence, pursuant to a Suspension Agreement with the Board effective March 20, 2012 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 Registrant admits that he diverted, for personal use, 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. 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 Registrant agrees that his Pharmacist registration shall be placed on PROBATION for no less than three (3) years commencing with the date on which the Board signs this Agreement (Effective Date).
4. 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. 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 100 days of the date of the letter provided pursuant to paragraph 4(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.
- e. Have submitted 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 abuse, collected from the Licensee no less than fifteen (15) times per year during the Probation Period, all of which are required to be negative.
- f. Abstain from the use of alcohol and all substances of abuse or substances with potential for abuse.
- g. If prescribed any controlled substance, notify the Board within three (3) 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.

5. 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 three (3) years after the Effective Date upon written notice to the Registrant from the Board<sup>1</sup>.
6. If the Registrant does not comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint<sup>2</sup> 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 6(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.
7. The Registrant agrees that if the Board suspends his registration in accordance with Paragraph 6, 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 registration<sup>3</sup>.
8. 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. PHA-2011-0062 effective on March 20, 2012,

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<sup>1</sup> 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.

<sup>2</sup> 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.

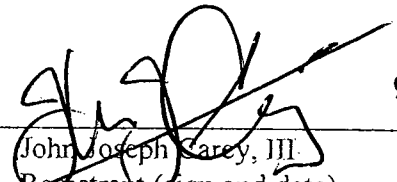
<sup>3</sup> Any evidence of unlicensed practice or misrepresentation as a Pharmacist after the Board has notified the Registrant of his registration suspension shall be grounds for further disciplinary action by the Board and the Board's referral of the matter to the appropriate law enforcement authorities for prosecution.

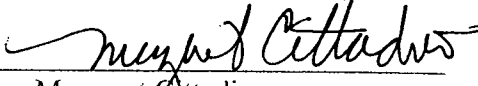
he knowingly and voluntarily waived his right to a formal adjudication concerning the allegations against him in the complaints, the rights that he would have possessed during such adjudication to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, 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.

9. 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.
10. 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.
11. 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.

  
8/14/13  
Witness (sign and date)

Susan K. Carey  
Witness (print name)

  
8/14/13  
John Joseph Carey, III  
Registrant (sign and date)

  
Margaret Cittadino  
Associate Director  
Board of Registration in Pharmacy

August 26, 2013  
Effective Date of Probation Agreement

Fully Signed Agreement Sent to Registrant on August 26, 2013 by Certified Mail  
No. 7012 3460 0001 7330 8654