

Received

JUL 18 2016

COMMONWEALTH OF MASSACHUSETTS

BOARD OF
PHARMACY

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Marissa R. Fisher, R. Ph.)
PH26767)

PHA-2016-0004

CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Pharmacy ("Board") and Marissa R. Fisher ("Licensee"), PH26767, 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. Licensee acknowledges that the Board opened a complaint against her Massachusetts pharmacist license related to the conduct set forth in Paragraph 2, identified as Docket No. PHA-2016-0004.¹
2. The Board and Licensee acknowledge and agree to the following facts:
 - a. Between January 2012 and November 2015, Licensee was employed as a pharmacist at Omnicare of Northern Massachusetts ("Omnicare"), located in Peabody Massachusetts.
 - b. Between May 2001 and January 2013 Licensee was employed as a pharmacy technician, and later as a pharmacist, at Hogan Regional Center, located in Danvers, Massachusetts ("Hogan").
 - c. Between approximately January 2012 and November 2015, Licensee diverted three (3) Prednisone 5mg tablets, one (1) Amox/Clav 500mg/125mg tablet, sixteen (16) Prednisone 1mg tablets, ten (10) Metronidazole 250mg tablets, twenty-four (24) Levofloxacin 250mg tablets, two (2) Pramiprexole 0.25mg tablets, six (6) Sprionolactone 25mg tablets, three (3) Chlorpromazine 25mg tablets, two (2) Ondansetron 4mg tablets, seven (7) Propranolol 10mg tablets, fourteen (14) Nitrofurantoin 100mg capsules, and ten (10) Trimeth/Sulfa DS tablets from the pharmacies where she worked. Licensee did not have a prescription for said controlled substances.

¹ The term "license" applies to both a current license and the right to renew an expired license.

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3. The Board and Licensee acknowledge and agree that Licensee's conduct described in Paragraph 2 is a violation of M.G.L. c. 94C, § 34 and warrants disciplinary action by the Board under M.G.L. c. 112, §§ 42A & 61 and 247 CMR 10.03(1)(x).
4. Licensee agrees that her pharmacist license shall be placed on **PROBATION** for one (1) year ("Probationary Period"), commencing with the date on which the Board signs this Agreement ("Effective Date").
5. During the Probationary Period, the Licensee further agrees that she shall:
 - a. Comply with all laws and regulations governing the practice of pharmacy.
 - b. Notify the Board in writing within ten (10) days of each change in her name and/or address.
 - c. Timely renew her license.
 - d. Submit documentation demonstrating successful completion of at least two (2) contact hours of continuing education in the area of pharmacy law within 90 days of the Effective Date.²
 - e. Submit an attestation to the Board demonstrating Licensee read and reviewed 247 CMR 2.00 – 247 CMR 21.00.³
 - f. Submit an attestation to the Board demonstrating Licensee read and reviewed the Drug Enforcement Administration ("DEA") Pharmacist Manual.
6. The Board agrees that in return for Licensee's execution and successful compliance with the requirements of this Agreement it will not prosecute the Complaint.
7. If the Licensee has complied to the Board's satisfaction with all the requirements contained in this Agreement, the Probationary Period

² This continuing education requirement shall be *in addition to* any contact hours required for license renewal.

³ This requirement pertains to all sections under 247 CMR.

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will terminate one (1) year after the Effective Date upon written notice to the Licensee from the Board.⁴

8. If the Licensee does not materially comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint⁵ during the Probationary Period, the Licensee agrees to the following:

a. The Board may upon written notice to the Licensee, 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 Licensee's pharmacist license.

b. If the Board suspends the Licensee's pharmacist license pursuant to Paragraph 8(a)(iii), the suspension shall remain in effect until:

- i. the Board provides Licensee written notice that the Probationary Period is to be resumed and under what terms; or
- ii. the Board and Licensee 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.

9. Licensee agrees that if the Board suspends her pharmacist license in accordance with Paragraph 8(a)(iii), she will immediately return her current Massachusetts pharmacist license to the Board, by hand or certified mail. Licensee further agrees that upon said suspension, she will no longer be authorized to practice as a pharmacist in the Commonwealth of Massachusetts and shall not in any way represent

⁴ 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.

⁵ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date concerning acts, omissions, or events occurring after the Effective Date, which (1) alleges that the Licensee engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Licensee shall have an opportunity to respond.

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herself as a pharmacist until such time as the Board reinstates her pharmacist license or right to renew such license.

10. Licensee understands that she has a right to formal adjudicatory hearing concerning the Complaint and that during said adjudication she would possess the right 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 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 she is knowingly and voluntarily waiving her right to a formal adjudication of the Complaints.
11. The Licensee acknowledges that she 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 she has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a voluntary and final act and not subject to reconsideration, appeal or judicial review.

Shirley R. Hamel 7/15/16
Witness (sign and date)

Ma Yan 7/15/16
Signature and Date

Marissa Fisher
Print Name
Marissa R. Fisher, R. Ph.

David Sencabaugh
David Sencabaugh, R. Ph.
Executive Director

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Board of Registration in Pharmacy

7-19-16

Effective Date of Probation Agreement

Fully Signed Agreement Sent to Licensee on 7/19/16 by
Certified

Mail No. 7015 1660 0001 1911 4104