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BOARD OF
PHARMACY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
MARK S. MCKINNEY)
Pharmacist Registration No. 27633)
_____)

Docket No. PHA-2001-0005

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and Mark S. McKinney, R.Ph. ("Registrant"), a pharmacist registered by the Board (Reg. No. 27633) hereinafter referred to as "Massachusetts License"), currently residing at [redacted], do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the file of Registrant that is maintained by the Board:

1. The parties enter into this Consent Agreement ("Agreement") in resolution of Complaint Docket No. PHA-2001-0005 ("Complaint") concerning the suspension of Registrant's Texas Pharmacist license No. 21038 ("Texas License"), by the Texas State Board of Pharmacy ("Texas Board") pursuant to that certain *Agreed Board Order #H-08-017-A* of the Texas Board ("Texas Order"), dated May 5, 2009. According to the Texas Order, Registrant, on or about July 18, 2006, in the course of his employment as a pharmacist at Mother Frances Pharmacy, 800 East Dawson, Tyler, Texas, did distribute an IV solution of 5% Albumin in one liter of sterile water to a patient with the IV bag labeled Albumin Human 5% Sol 1000 mL. According to the Texas Order, the Texas Board probated the two year suspension for the period commencing on or about June 4, 2009.

3. The Board and the Registrant acknowledge and agree that his Massachusetts License shall be suspended by the Board for a minimum two year period, retroactive to June 4, 2009; such suspension being stayed by the Board and his Massachusetts License hereby placed on Probationary Status until such time as Registrant provides documentation to the Board that his Texas License is in good standing and not subject to any restrictions ("Probation Period"),

commencing as of the Effective Date of this Agreement and continuing until such time as the Board terminates the Probation Period, in accordance with the terms of Paragraph 5. of the Agreement.

4. During the Probation Period, the Registrant acknowledges and agrees that he must must comply with all probationary terms and conditions ordered by the Texas Board.

5. Registrant agrees that the termination of the Probation Period shall be granted only if Registrant has met the following conditions:

- a. Registrant must apply in writing to the Board for termination of the Probation Period. The Board will not consider such a request without submitting official documentation of evidence that Registrant's Texas License is in good standing; 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. This Agreement is a public record subject to disclosure to the public and equivalent state licensing boards.

7. 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 of this Agreement or the Texas Order, the Board may move to IMMEDIATELY SUSPEND Registrant's Massachusetts License without the requirement of further proceedings pursuant to M.G.L. c. 30A.

8. The Board agrees that in return for 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.

9. The Registrant understands and agrees that the 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.

10. 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.

11. 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 regarding the Complaint 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.

Beverly J McKinney
Witness (sign name)

Beverly J McKinney
Witness (print name)

Mark S McKinney
Mark S. McKinney, R.Ph.
Registrant

Effective Date: 3/21/11

BOARD OF REGISTRATION
IN PHARMACY

Stanley B. Walczyk
Stanley B. Walczyk, R.Ph.
President

Date: March 15, 2011

Dec. No. 2549