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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF
PHARMACY
BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Ralph F. Mastriano, R.Ph.)
Pharmacist Registration No. 19070)

Docket No. PH-08-027

COPY

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and Ralph F. Mastriano, R.Ph. ("Registrant"), a pharmacist registered by the Board (Registration No. 19070), 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 order to resolve disputed matters arising out of the complaint pending against Registrant before the Board as Docket No. PH-08-027 (the "Complaint").
2. The Registrant agrees that this Agreement has been entered into as a result of Registrant's conduct relating to certain prescriptions he presented for filling at the clinic pharmacy where he was employed as Director of Pharmacy during the period from January 2007 thru May 2007.
3. Accordingly, the Registrant acknowledges and agrees to the following:
 - a. that his conduct described in Paragraph 2 above constitutes professional misconduct which warranting Board disciplinary action under G.L. c. 112, § 61 and Board Regulations 247 CMR 9.01(1), 9.01(6), 10.03(a), 10.03(e), 10.03(u), 10.03(v), and 10.03(w);
 - b. that his license will be deemed suspended for the minimum one year period (Suspension Period) commencing September 1, 2008, 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. that within 30 days of executing this Agreement, Registrant must commence a minimum of twelve months of psychotherapy with a Board approved therapist (minimum biweekly or such other schedule as may be recommended by the therapist); with therapist's reports to be submitted to the Board bi-annually and a final therapist report with any recommendations regarding therapy or Registrant's

practice of pharmacy to be submitted with any petition for termination of psychotherapy after the initial twelve month period of required psychotherapy;

- d. provided Registrant has complied with Paragraph 3.c., the Board will terminate the Suspension Period and place Registrant's license on probationary status for a minimum four (4) year period (Probation Period);
 - e. that he must pass (score of at least 75%) the Multistate Pharmacy Jurisprudence Examination (MPJE) within ninety (90) days of the Effective Date of this Agreement. Registrant must provide the Board with documentation of passing the MPJE;
 - f. that during the Probation Period, Registrant may not act in the capacity of manager of record of a retail pharmacy/ pharmacy department or director of pharmacy of an institutional pharmacy, clinic pharmacy or other health system pharmacy department, until such time as the Board has terminated the Probation Period in accordance with Paragraph 4; and
 - g. that during the Probation Period, Registrant may not fill any personal prescriptions, or present any prescriptions for himself, at any place of employment.
4. Registrant agrees that termination of the Suspension and Probation Periods shall be granted only if Registrant has met the following conditions:
- a. Registrant has applied in writing to the Board for termination of the Suspension and Probation Periods. The Board may schedule Registrant's appearance to discuss the merits of such a request. At the time of any application for termination of the Probation Period, the Board will determine if a medical or other evaluation is necessary to determine if any employment monitoring terms are appropriate; and
 - b. Registrant has fully complied with all terms and conditions of the Agreement and meets all other requirements for licensure.
5. The Agreement and its contents shall be incorporated into the records maintained by the Board. The Agreement is a public record subject to disclosure without limitation to the public and equivalent state licensing boards.
6. 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.
7. The Registrant understands and agrees that his failure to abide by the terms of this Agreement shall nullify the representations contained in Paragraph 6, 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.*

8. 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, the Board may seek to immediately REVOKE or otherwise discipline the Registrant's license to practice as a pharmacist without the requirement of further proceedings pursuant to G.L. c. 30A.

9. 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.

10. The Registrant states that he has used legal counsel in connection with his decision to enter into this Agreement 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 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.

Julaine M. Mastriano
Witness (sign and date)

Julaine M. Mastriano
Witness (print name)

Ralph F. Mastriano
Ralph F. Mastriano, R.Ph.
Registrant

9-30-2009
Date Signed
Effective Date of Suspension: 9/01/08

BOARD OF REGISTRATION
IN PHARMACY
James T. DeVita
James T. DeVita, R.Ph.
President

Date: September 8, 2009