

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

Received

DEC 8 2008

In the Matter of )  
**RODNEY E. FINCH, R.Ph.** )  
Pharmacist Registration No. 19204 )

BOARD OF  
PHARMACY

Docket No. PH-07-067

**AMENDED CONSENT AGREEMENT FOR PROBATION**

The Board of Registration in Pharmacy ("Board") and Rodney E. Finch ("Registrant"), a pharmacist registered by the Board (Pharmacist Registration No. 19204), 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 Amended Consent Agreement for Probation ("Probation Agreement") pursuant to the terms and conditions of that certain Consent Agreement ("2007 Consent Agreement"), effective January 10, 2007, executed by Registrant and the Board in resolution of the above matter and pursuant to the terms of which Registrant has petitioned the Board for the termination of the Suspension Period. This Agreement supersedes and replaces that certain *Consent Agreement for Probation* dated April 2008 ("April 2008 Agreement") executed by Registrant and the Board.
2. Registrant acknowledges that the termination of the Suspension Period is conditioned upon Registrant's agreement to the following terms and conditions:
  - a. Pursuant to the terms of the April 2008 Agreement, the Board terminated the Suspension Period and placed Registrant's license on probationary status for a minimum four-year period ("Probation Period"), effective April 8, 2008. Termination of the Probation Period shall be governed by Paragraph 4 of this Agreement; and
  - b. During the Probation Period, the Registrant acknowledges and agrees:

(1) Registrant may not act as a pharmacist manager of record in any pharmacy setting;



(2) Registrant must comply with the terms and conditions of the [redacted] agreement for [redacted] by [redacted] M.D. ([redacted]) with regularly scheduled assessments by [redacted] [redacted]. In the event Registrant terminates his relationship with Dr. [redacted], Registrant shall notify the Board in writing of any such change with ten (10) days and provide a copy of a subsequent [redacted] contract to the Board and name of prospective prescribing physician;

(3) Registrant has entered into an agreement with the [redacted] [redacted] for a minimum one-year period from this Agreement is executed by Registrant ("Screening Period"). After the initial twelve months of the Screening Period, Registrant may apply in writing to the Board for the termination of the [redacted] requirement. The Board will not consider such a request without a termination recommendation by [redacted] and the Board may request a conference to discuss such request;

- i. Registrant shall refrain from the use of any "PRN" medication (including all benzodiazepines, opiates and opioids including buprenorphine) during the Probation Period;
- ii. Dr. [redacted] will be required to notify Timothy McCarthy, [redacted] Coordinator, by telephone within twenty four (24) hours of receiving notice that another prescriber (including as a result of any emergency room visit) has issued a PRN prescription for Registrant;
- iii. Dr. [redacted] must provide written confirmation to the Board that he has have been provided a copy of this Agreement and that he understands and agrees to his responsibility to notify [redacted] Coordinator Tim McCarthy (617 973 0910, Division of Health Professions Licensure, 239 Causeway St., 2<sup>nd</sup> Floor, Boston, MA 02114) as required hereunder. Such written confirmation must be submitted to the Board before Registrant's license will be reinstated;
- vi. 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; and

(5) Registrant hereby waives any privileges concerning and all information, reports and records, which release includes the Registrant's waiver of any privileges and immunities he may possess regarding all material covered by 42 CFR Part 2, and the Criminal Offender Records Information (CORI) Act (G.L. c. 6, §§ 167-178) and authorizes the Board to have access to all such information and records.

3. Registrant agrees that termination of the 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 Probation Period. The Board may request a conference to discuss the merits of such request and request documentation regarding employment status; and
- b. Registrant has fully complied with all terms and conditions of this Agreement and meets all other requirements for licensure.

4. Registrant acknowledges that this Agreement shall be incorporated into the records maintained by the Board, is a matter of public record, and subject to disclosure without limitation to the public and equivalent state licensing boards.

5. 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 suspend the Registrant's license to practice pharmacy without the requirement of further proceedings pursuant to M.G.L. c. 30A for a period of time deemed necessary by the Board.

6. The Registrant understands and agrees that any of the following may be considered by the Board to be a violation of this Agreement and a basis for disciplinary action by the Board:

- a. A toxicology screen is found to contain any evidence of any controlled substance in violation of this Agreement or Registrant's agreement with Dr. [redacted], or
- b. the Board has other reliable evidence that the Registrant has used any controlled substance in violation of this Agreement or Registrant's agreement with Dr. [redacted] or



- c. the Registrant withdraws any waiver or release provided and/or filed in connection with this Agreement or any agreement with Dr. [redacted].

7. 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.

8. 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.

9. The Registrant certifies that he has read this document entitled "Consent Agreement". The Registrant understands that, by executing this Agreement, he is agreeing to the terms and conditions pursuant to which the Board will terminate the Suspension Period and place his license on probationary status on the terms and conditions set forth herein.

Ronald J. McCall  
Witness (signature)

RONALD J. McCALL  
Witness (Print Name)

Rodney E. Finch RPh  
Rodney E. Finch, R.Ph.

Effective Date: 10/16/08

BOARD OF REGISTRATION  
IN PHARMACY

Sophia Pasedis  
Sophia Pasedis, R.Ph., Pharm.D.  
President  
Effective date: October 16, 2008

Dec. No. 1705 amended



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SUFFOLK COUNTY

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In the Matter of )  
Rodney E. Finch, R.Ph. )  
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Docket No. PH-07-067

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BOARD OF  
PHARMACY

CONSENT AGREEMENT

The Board of Registration in Pharmacy ("Board") and Rodney E. Finch, R.Ph. ("Registrant"), a pharmacist registered by the Board (Registration No. 19204), 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-07-067 (the "Complaint").
2. The Registrant agrees that this Agreement has been entered into as a result of his admission to the Board, that on divers dates over the period commencing on or about March 2006 thru January 2007, while employed at Wal-Mart Pharmacy # 10-2122, 30 Memorial Drive, Avon, Massachusetts, he did divert various controlled substances for personal use; specifically, hydrocodone/APAP and lorazepam in violation of G.L. c. 94C, §§ 34 and 37 and 247 CMR 9.01(1) and 9.01(6).
3. Accordingly, the Registrant acknowledges and agrees to the following:
  - a. that his conduct described in Paragraph 2 above constitutes professional misconduct which warrants Board disciplinary action under G.L. c. 112, § 61 and Board Regulations 247 CMR 9.01(1) and 9.01(6);
  - b. that his license will be suspended for a minimum one year period (Suspension Period), effective January 10, 2007, during which time he 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 not sooner than November 30, 2007, Registrant may petition the Board for the termination of the Suspension Period. The Board will terminate the



Suspension Period in accordance with Paragraph 4. hereof and place his license on Probationary Status for a minimum four (4) year period (Probation Period).

- d. that he must take and successfully pass with a 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 Board with documentation of passing the MPJE;
  - e. that he must complete continuing education units (CEUs) required pursuant to 247 CMR 4.00(4) for 2007 and 2008. Registrant must provide Board with documentation of completing all required CEUs; and
  - f. to return a signed copy of this Agreement to the Board within ten (10) days of receipt.
4. Registrant agrees that the 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 such application, the Board may determine that certain probationary terms are necessary and appropriate for the Board to terminate the Suspension Period and Registrant to resume the practice of pharmacy; which probationary status conditions may include, but not be limited to, medical evaluation and employment monitoring terms; 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 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.*
8. The Registrant understands and agrees that, at any time during the Suspension 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 the Registrant's license to practice as a pharmacist without the requirement of further proceedings.

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 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 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.

Nicholas G. Gonis  
Witness (signature)

NICHOLAS G. GONIS  
Witness (print name)

Rodney E. Finch, R.Ph.  
Registrant

5/30/2007  
Date

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

01/10/07  
Effective Date