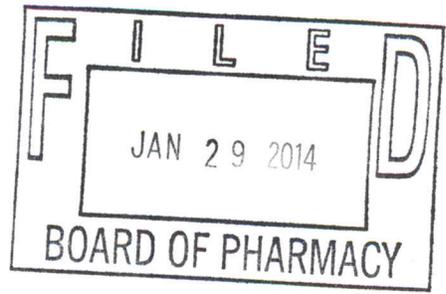


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

_____	:	
IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	
	:	Administrative Action
Thomas Gates, R.P.	:	
License No.28RI01678400	:	CONSENT ORDER
	:	
TO PRACTICE PHARMACY IN THE	:	
STATE OF NEW JERSEY	:	
_____	:	

This matter was most recently opened to the New Jersey State Board of Pharmacy (Board) upon receipt of Respondent Thomas Gates' petition for reinstatement of his New Jersey pharmacy license. Respondent's New Jersey license was suspended by way of a Consent Order filed with the Board on October 13, 2009 based on substance abuse and theft of CDS while employed as

a pharmacist at Stirling Shoprite from February 2007 to February 2009. The Consent Order imposed an active suspension for two years or until Respondent completed Pretrial Intervention (PTI), whichever was longer. Respondent completed PTI on January 14, 2013 at which time the criminal charges were dismissed.

Dr. Louis E. Baxter, M.D., FASAM, Executive Medical Director of the Professional Assistance Program of New Jersey (PAP), by Position Statement dated March 4, 2013 strongly supports Respondent's petition for reinstatement with certain monitoring requirements. Dr. Baxter notes that Respondent has been enrolled in the PAP since April 2009; has four years ongoing, documented recovery; is on random weekly urine monitoring with negative results; continues under the care of his psychologist, Susan Roth, Ed.D. for group therapy four times a month; and attends Alcoholics Anonymous support group meetings several times a week. In addition, Ricardo Fernandez, M.D., by independent psychiatric evaluation conducted on January 31, 2013, and Susan Roth, Ed.D., by letter dated January 9, 2013, support Respondent's reinstatement. In support of his application for reinstatement, Respondent, by letter dated March 6, 2013, stated that he completed an intensive outpatient drug treatment program at High Focus Center in Parsippany, NJ, in April 2009; has attended and continues to attend Narcotics

Anonymous 12-step meetings twice weekly for the past four years; continues in group therapy with Susan Roth; and has completed the ProBe Ethics Course.

Respondent appeared and testified under oath before the New Jersey State Board of Pharmacy on October 2, 2013. The Board considered the testimony of Respondent and reviewed all relevant documentation submitted, including the statements and letters of Dr. Baxter, Dr. Fernandez and Susan Roth in which they fully support the reinstatement of Respondent's license. Respondent presented himself in a sincere manner and articulated a genuine commitment to maintaining sobriety. The Board finding that Respondent fully complied with the Consent Order of October 13, 2009, and is willing to comply with the conditions set forth in this Order, concurs with the PAP's recommendation to grant reinstatement of Respondent's license to practice pharmacy with conditions. However the Board is concerned about Respondent not having been engaged in the practice of pharmacy for four years and of the Board's responsibility to protect the public's health, safety and welfare. Therefore, Respondent will be required to refresh and update his knowledge of the practice of pharmacy pursuant to the terms outlined below.

Respondent, being desirous of resolving this matter without the necessity of further formal proceedings, and agreeing to waive any right to same, and the Board having determined that this Order is sufficiently protective of the public health, safety and welfare, and all parties agreeing to the terms of this Order and for other good cause shown;

**IT IS THEREFORE on this 29th day of January, 2013,
ORDERED AND AGREED that:**

1. Prior to reinstatement, Respondent shall provide the following documents to the Board, which shall all be to the satisfaction of the Board:

- a. Proof of successful completion of all application requirements including a criminal history background check with results that are satisfactory to the Board and payment of all reinstatement fees;
- b. Documentation of his successful completion of all continuing education requirements.
- c. Proof of successful completion of a 250-hour internship under the supervision of a Board approved preceptor who is aware of Respondent's history as outlined in this Order. Prior to commencement of the internship, Respondent and the preceptor shall register with the Board and the preceptor shall sign a copy of this Order indicating his agreement to supervise Respondent and report to the Board as required by this Order and N.J.A.C. 13:39-2.6 et seq.. The preceptor shall immediately (within twenty four hours of awareness of occurrence) report to the Board

orally and in writing of any actions by Respondent in violation of this Order, any relapse into addiction behavior, any positive urine and any violation of the statutes or regulations governing the practice of pharmacy. The Preceptor shall further agree to submit documentation to the Board (on a Board approved form) at the conclusion of Respondent's internship indicating whether Respondent has successfully completed the internship. Successful completion means that the preceptor recommends unconditionally and without reservation that Respondent is ready to practice pharmacy without supervision.

2. After Respondent has complied with all of the requirements of paragraph (1) of this Order to the satisfaction of the Board, Respondent's license to practice pharmacy shall be reinstated subject to the conditions in paragraphs three to seven of this Order which shall be in place for a minimum of two (2) years from the date of Respondent's reinstatement.

3. Respondent shall not act as a preceptor or pharmacist-in-charge (RPIC) at any pharmacy and shall not own or have an ownership interest in any pharmacy.

4. A copy of this Order shall be provided to all employers where a pharmacy license is required for employment or where the Respondent has access to medication, prescriptions or patient profiles. The Respondent shall ensure that each employer notifies the Board in writing that he or she has received this Order prior to Respondent beginning employment.

The Respondent shall inform the Board in writing of any employment changes, including periods of unemployment, and shall also provide a detailed description of his job, role and responsibilities.

5. Respondent shall continue to enroll in and comply fully with the monitoring program established for him by the Professional Assistance Program of New Jersey ("PAP") until further Order of the Board. Such monitoring program shall include but not be limited to:

- a. Absolute abstinence from all psychoactive substances including alcohol unless prescribed by a treating health care professional aware of his substance abuse history for a documented medical condition and with notification from the treating health care professional to the Executive Medical Director of the PAP of the diagnosis and treatment regime within five days of issuing the prescription. Respondent shall advise all of his treating health care practitioners, who prescribe medications, of his addiction history and shall be responsible to ensure that the treating health care professional notifies the PAP of any prescription for a psychoactive substance within five days of issuance of the prescription. Respondent shall also personally notify the PAP of any prescription for psychoactive substance within five days of issuance of the prescription.
- b. Respondent shall regularly attend support group meetings of Narcotics Anonymous and/or Alcoholics Anonymous. Respondent shall provide evidence of attendance at such groups directly to the PAP on a form or in a manner as required by the PAP.

- c. Respondent shall undergo random witnessed urine monitoring under the supervision of the PAP on a random, unannounced basis, at a frequency of no less than twice per week for the first six months following Respondent's return to practice and once per week for the subsequent twelve months. Subsequent reductions in the frequency of urine screens shall be at the direction of the Executive Medical Director of the PAP consistent with Respondent's duration in recovery with prior notification to the State Board of Pharmacy. All test results shall be provided in the first instance directly to the PAP and any positive result shall be reported immediately by the PAP to the Executive Director of the Board.
- d. The Board reserves the right to require a modification of the manner of the random witnessed urine testing by the PAP in the event technical developments or individual requirements indicate that a different methodology or approach is required to guarantee the accuracy and reliability of the testing.
- e. Respondent's failure to submit to or provide a urine sample within twenty-four hours of a request shall be deemed to be the equivalent of a confirmed positive urine test and shall be deemed a violation of this order unless Respondent is unable to appear for a scheduled urine test due to illness or other impossibility. Respondent must advise the Board in writing within two (2) days, and cause the PAP to so advise the Board in writing within (2) days, of a claimed illness or impossibility. If Respondent fails to appear for a scheduled urine test due to illness, Respondent shall provide to the Board, written substantiation of the illness in the form of a physician's report, within two (2) days. "Impossibility" means an obstacle beyond the control of Respondent that is insurmountable or that makes his appearance for the urine test so infeasible that a reasonable person would waive Respondent's requirement to give the urine sample that day.

- f. All random witnessed alcohol and drug screens shall be negative for the presence of alcohol or drugs, unless the drugs detected by screening were taken for a documented illness pursuant to a valid prescription from a health care practitioner aware of Respondent's substance abuse history. All positive results shall be confirmed by the Gas Chromatography Mass Spectrometry (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.
- g. Any urine test result showing creatinine levels below 20 mg/dl and a specific gravity below 1.003 shall create a rebuttable presumption of a confirmed positive urine test, and shall be followed by a confirming test. The method of the confirming test shall be determined by the PAP.
- h. Respondent shall become familiar with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Respondent specifically agrees that ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.
- i. Respondent shall attend monthly face-to-face meetings with a clinical representative of the PAP for the first year of his return to practice, followed by appointments scheduled every two months for the next twelve months and then at a frequency to be determined by the Executive Medical Director of the PAP consistent with Respondent's duration in recovery.

- j. Respondent shall continue to participate in group therapy with Susan Roth until such time as Ms. Roth, in consultation with the Executive Medical Director of the PAP agrees that therapy is no longer required.
- k. Respondent shall be responsible to ensure that the PAP shall supply reports to the Board every ninety (90) days beginning on the "filed" date of this Order regarding his progress with the monitoring program.
- l. Respondent shall obtain the agreement of the PAP via a signature of its representative on this Order to notify the Board within 24 hours of its receipt of information of any noncompliant behavior, slip or relapse of impairment, including but not limited to any positive urine screen or failure to appear for urine monitoring or any scheduled appointment or any discontinuance of the PAP rehabilitation program whether initiated by Respondent or by the PAP.
- m. Respondent expressly waives any claim to privilege or confidentiality that he may have concerning reports and disclosures to the Board, and use by the Board of that information in any license proceedings, including reports and disclosures by the urine monitoring program, or the PAP, or any other person or entity involved in his rehabilitation program.
- n. All costs associated with the monitoring outlined above shall be the responsibility of, and paid directly by, Respondent.

6. Respondent hereby consents to the entry of an Order of automatic suspension of license without notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable that Respondent has failed to comply with any of the conditions set forth above, any other provision of this Order, any report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of the use of alcohol or any psychoactive substance which is not prescribed by a treating health care professional aware of Respondent's substance abuse history, for a documented medical condition, and with notification to the PAP as described above.

7. Respondent shall have the right to apply for removal of the automatic suspension on five (5) days notice but in such event shall be limited to a showing that the urine tested was not his or was a false positive in the case of urine testing, or that other information submitted was false.

8. Respondent may, one (1) year following reinstatement, petition the Board for modifications to any and all of the conditions outlined above.

NEW JERSEY STATE BOARD OF PHARMACY

By: Richard Palumbo
~~Thomas F.X. Bender, R.Ph.~~
V. President Richard Palumbo, RPh

I have read the within Order and understand its terms. I consent to the entry of this Order by the New Jersey Board of Pharmacy:

Thomas Gates
Thomas Gates, R.Ph

I agree to comply with the supervision and reporting requirements as to the supervisor/preceptor under this Order:

David Lee
NAME: DAVID LEE, R.Ph.
Preceptor

Consent as to form and entry:

Kathleen M. Gialanella
Kathleen M. Gialanella, Esq.

Agreed as to the monitoring and reporting requirements of this Order on behalf of the Professional Assistance Program of New Jersey:

Louis E. Baxter, Sr.
Louis E. Baxter, Sr., M.D., FASAM
Executive Medical Director
Physicians Assistance Program