

STATE OF MAINE  
BOARD OF PHARMACY

IN RE: )  
 )  
 NORMAND F. TURGEON ) SIXTH CONSENT AGREEMENT  
 )  
 Complaint No. PHR-434 )

PARTIES

This document is a Sixth Consent Agreement regarding disciplinary action against Normand F. Turgeon's license to practice pharmacy in the State of Maine. The parties to this Sixth Consent Agreement are: Normand F. Turgeon ("Mr. Turgeon"), the State of Maine Board of Pharmacy ("the Board") and the Maine Office of the Attorney General ("the Attorney General"). This Sixth Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5-A).

FACTS

1. Mr. Turgeon was licensed by the Board as a pharmacist, license no. PR 3851.
2. On or about October 21, 2005, the Board received a report of the loss of controlled substances from Anne Theriault, Pharmacy Supervisor for CVS/Pharmacy Maine, which the Board docketed as Complaint No. PHR-434.
3. The report alleged that Mr. Turgeon admitted to illegally diverting 5000 tablets of Hydrocodone APAP, a controlled substance, over a period of two years.
4. On November 8, 2005, the Board summarily suspended Mr. Turgeon's pharmacist license.

5. On December 12, 2005, Mr. Turgeon, the Board, and the Attorney General's Office entered into a Consent Agreement wherein Mr. Turgeon admitted to diverting the controlled substance, Hydrocodone APAP from the CVS Pharmacy in Lewiston, Maine and failing to disclose a criminal conviction as required in his renewal application dated December 21, 2002. Mr. Turgeon admitted that such conduct constituted violations of the Board statutes and rules, and he agreed to accept as discipline the immediate revocation of his license and the imposition of a fine.
6. Pursuant to a letter dated January 12, 2006, Mr. Turgeon petitioned the Board for reinstatement of his license.
7. On February 14, 2006, Mr. Turgeon appeared before the Board in support of his petition.
8. On February 14, 2006, the Board voted to offer a Second Consent Agreement to Mr. Turgeon in order to reinstate Mr. Turgeon as a licensed pharmacist in the State of Maine, while also imposing conditions upon his pharmacist license.
9. That Second Consent Agreement was executed on March 8, 2006, and required Mr. Turgeon, among other things, to abstain from taking prescription medications without a valid prescription (paragraph 10(E)) from a physician and to undergo random and watched urine screenings for the presence of opiates and controlled substances (paragraph 10(C)). The Second Consent Agreement also contained the following statement in paragraph 10(H):

Any positive test for drugs not prescribed to Mr. Turgeon resulting from a sampling of urine pursuant to paragraph 10(C) above will create a rebuttable presumption of Mr. Turgeon's failure to abstain from prohibited substances in violation of terms and conditions of this Consent

Agreement. A positive test is deemed to be a reliable allegation or report of failure to abstain.

10. By letter dated July 1, 2006, Mr. Turgeon petitioned the Board to amend the Second Consent Agreement consistent with the recommendation of his treating physician so that it would require him to be seen by his treating specialist every four (4) months instead of every six (6) weeks.
11. On August 8, 2006, the Board voted to amend the Second Consent Agreement as requested by Mr. Turgeon and to offer Mr. Turgeon a Third Consent Agreement.
12. That Third Consent Agreement was executed on September 7, 2006, and continued to require Mr. Turgeon, among other things, to abstain from taking prescription medications without a valid prescription from a physician (paragraph 13(E)) and to undergo random and watched urine screenings for the presence of opiates and controlled substances (paragraph 13(C)). The Third Consent Agreement also contained the following statement in paragraph 13(H):

Any positive test for drugs not prescribed to Mr. Turgeon resulting from a sampling of urine pursuant to paragraph 13(C) above will create a rebuttable presumption of Mr. Turgeon's failure to abstain from prohibited substances in violation of terms and conditions of this Consent Agreement. A positive test is deemed to be a reliable allegation or report of failure to abstain.

13. At no time during the term of the Second and Third Consent Agreements did Mr. Turgeon have a valid prescription for any barbiturates or opiates.
14. Following the execution of the Third Consent Agreement, the Board became aware of results of urine screening that showed positive results for barbiturates and opiates as follows:

- a. A screening conducted on June 2, 2006, was positive for barbiturates;
- b. A screening conducted on August 18, 2006, was positive for barbiturates and opiates;
- c. A screening conducted on September 29, 2006, was positive for barbiturates and opiates; and
- d. A screening conducted on November 28, 2006, was positive for barbiturates.

15. Following a presentation to the Board on January 23, 2007, of these screening results and Mr. Turgeon's apparent violation of the Second and Third Consent Agreements, the Board found that licensure of Mr. Turgeon as a pharmacist placed the health and physical safety of the public in immediate jeopardy and that waiting for a full hearing to adjudicate the matter would fail to adequately respond to this known risk.

Accordingly, the Board summarily suspended the license of Mr. Turgeon.

16. The Board then held a hearing on February 6, 2007, to adjudicate the issue of Mr. Turgeon's alleged violation of the Second and Third Consent Agreements.

17. Following the hearing, the Board issued a Decision and Order dated February 27, 2007, in which the Board found that Mr. Turgeon had violated the terms of the Second and Third Consent Agreements.

18. The Board imposed the following disciplinary action against Mr. Turgeon:

- a. Reprimand;
- b. Revocation of license;
- c. Fine of \$1,500.00; and

d. Costs of the hearing totaling \$1,315.00.

19. Pursuant to a letter dated September 28, 2007, Mr. Turgeon petitioned the Board for reinstatement of his license.

20. On December 18, 2007, Mr. Turgeon appeared before the Board in support of his petition.

21. On December 18, 2007, the Board voted to offer a Fourth Consent Agreement to Mr. Turgeon in order to reinstate Mr. Turgeon as a licensed pharmacist in the State of Maine, while also imposing conditions upon his pharmacist license.

22. That Fourth Consent Agreement was executed on January 8, 2008.

23. Pursuant to a letter dated April 30, 2008, Mr. Turgeon petitioned the Board to amend the Fourth Consent Agreement consistent with the recommendation of his treating physician and counselor so that it would require him to be seen by his treating physician and his counselor every two (2) months on an alternate month basis instead of every month.

24. On August 19, 2008, the Board voted to amend the Fourth Consent Agreement as requested by Mr. Turgeon and to offer Mr. Turgeon this Fifth Consent Agreement.

25. On September 15, 2008, Mr. Turgeon accepted the Fifth Consent Agreement.

26. That Fifth Consent Agreement required, among other things, that Mr. Turgeon refrain from taking any prescription medications without a valid prescription from a health care practitioner (paragraph 26(I)).

27. The Fifth Consent Agreement also contained the following language: "any positive test for drugs not prescribed to Mr. Turgeon...will create a rebuttable presumption of

Mr. Turgeon's failure to abstain from prohibited substances in violation of terms and conditions of this Fifth Consent Agreement. A positive test is deemed to be a reliable allegation or report of failure to abstain." (paragraph 26(K))

28. On April 9, 2010, Mr. Turgeon was employed as a pharmacist at Kennebec Pharmacy and Home Care. In the medication storage room, where Mr. Turgeon had been working, an employee found a cut straw and a powdery substance. The powder later tested positive for hydromorphone, hydrocodone and cocaine. It was discovered that Mr. Turgeon had Mr. Turgeon ultimately admitted to Investigator Tom Avery that he had ingested the powder by snorting it through the straw, and that he had been doing so for months. Mr. Turgeon also admitted to drinking liquid morphine overfill. Investigator Avery took a urine sample from Mr. Turgeon, which tested positive for hydromorphone. Mr. Turgeon did not have a prescription for hydromorphone or any other opiate. Mr. Turgeon later turned in his license to practice pharmacy to Investigator Avery.

29. Following a presentation to the Board on June 3, 2010, of the information contained in paragraph 28, above and Mr. Turgeon's apparent violation of the Fifth Consent Agreement, the Board found that licensure of Mr. Turgeon as a pharmacist placed the health and physical safety of the public in immediate jeopardy and that waiting for a full hearing to adjudicate the matter would fail to adequately respond to this known risk. Accordingly, the Board summarily suspended the license of Mr. Turgeon.

30. Absent Mr. Turgeon's acceptance of this Sixth Consent Agreement by signing and dating it and returning it to Kelly McLaughlin, Senior Consumer Specialist, 35 State

House Station, Augusta, Maine 04333-0035 by June 21, 2010, the Board will resolve this matter by holding an adjudicatory hearing.

### COVENANTS

31. Mr. Turgeon admits to the conduct described in paragraph 28, above, and further admits that such conduct constitutes grounds for discipline pursuant to the following:
- a. 10 M.R.S. § 8003(5-A)(A)(9) for violating a condition of a Board consent agreement;
  - b. 32 M.R.S. § 13742-A(1)(A) , habitual substance abuse that has resulted in or is foreseeably likely to result in performing duties in a manner that endangers the health or safety of patients, and Board Rule 02 CMR 392 ch. 30 § 1(14), being unable to practice pharmacy with reasonable skill and safety by reason of use of drugs.
32. Based on the conduct admitted to above and Mr. Turgeon's prior discipline, Mr. Turgeon's license to practice pharmacy in the State of Maine is hereby **REVOKED**.
33. If any provision of this Sixth Consent Agreement is deemed invalid or unenforceable, the remaining provisions of the Agreement shall not be affected thereby, and those remaining provisions shall be valid and enforceable to the maximum extent permitted by law.
34. This Sixth Consent Agreement is not appealable and the terms of this Sixth Consent Agreement remain in force until the agreement is amended. This Sixth Consent Agreement is subject to amendment at the sole discretion of the Board and can be amended only by a writing signed by all the parties hereto.

35. Nothing herein shall be construed as limiting the Board's authority. Except as otherwise provided for herein, the Board retains discretion to impose appropriate discipline for a violation of this Sixth Consent Agreement, the Board's statutes or rules, or the law.

36. The Board and the Office of the Attorney General may communicate and cooperate regarding any matter related to this Sixth Consent Agreement.

~~The Sixth Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.~~

38. Nothing in this Sixth Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

39. Mr. Turgeon acknowledges by his signature hereto that he has read this Sixth Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Sixth Consent Agreement, that he executed this Sixth Consent Agreement of his own free will, and that he agrees to abide by all terms and conditions set forth herein.

DATED: 6/18/10

*Normand F. Turgeon*  
NORMAND F. TURGEON

DATED: 8/15/10

*Lori A. McKeown*  
LORI A. McKEOWN, President  
Maine Board of Pharmacy

DATED: 8-5-10

*Carrie L. Carney*  
CARRIE L. CARNEY  
Assistant Attorney General