STATE OF MAINE
BOARD OF PHARMACY

IN RE: Michael G. Vanderwerken, R.Ph. CONSENT AGREEMENT
Complaint No. 2011-PHA-7588

PARTIES

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

FACTS

1. In August 2000, Mr. Vanderwerken was first licensed by the Board as a pharmacist, license no. PR 4926.

2. At all times pertinent to this matter, Mr. Vanderwerken was the co-owner and a pharmacist at New England Pharmacy Solutions ("NEPS"), which provides after-hours remote order entry pharmacy services to at least four hospitals in Maine.

3. On or about September 14, 2011, the Board received information pertaining to the license status of Mr. Vanderwerken from the Pharmacist In Charge ("PIC") at hospital #1, which was docketed as Complaint No. 2011-PHA-7588.

4. On December 31, 2010, Mr. Vanderwerken’s license to practice pharmacy expired.
5. In August 2011, the PIC at hospital #1 did a routine audit of the pharmacy records. During that audit, it was discovered that Mr. Vanderwerken was not licensed in Maine to practice pharmacy. On or about August 23, 2011, the PIC emailed Mr. Vanderwerken to notify him that he was not properly licensed and removed Mr. Vanderwerken’s access to hospital #1’s pharmacy software system. Mr. Vanderwerken responded to the PIC that he was in the process of trying to straighten out his license status with the Board.

6. The PIC at hospital #1 notified the director of pharmacy at hospital #2, who removed Mr. Vanderwerken’s access to its computer system on or about September 5, 2011.

7. On or about September 9, 2011, Investigator Avery spoke with Mr. Vanderwerken and informed him that his license to practice pharmacy had expired, and that he could not practice pharmacy in Maine until he became licensed.

8. Pharmacy records of hospital #3 and hospital #4 show that Mr. Vanderwerken continued to access their systems until November 8, 2011.

9. Mr. Vanderwerken provided remote entry pharmacy services in Maine for at least four hospitals totaling over five thousand (5,000) prescriptions during the time that he was not licensed to practice pharmacy in Maine.

10. On January 5, 2012, following a presentation of the complaint, the Board voted to offer Mr. Vanderwerken this Consent Agreement, in order to resolve Complaint No. 2011-PHA-7588. Absent acceptance of this Consent Agreement by signing and dating it and returning it to Kelly McLaughlin, Board Clerk, 35 State House Station, Augusta, Maine 04333-0035 by February 29, 2012, the Board will resolve this matter by holding an adjudicatory hearing.

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COVENANTS

11. Mr. Vanderwerken admits to the facts set forth above.

12. Mr. Vanderwerken admits that he violated the following applicable statutes, which constitutes grounds for disciplining him:
   a. 10 M.R.S. § 8003(5-A)(A)(1), fraud, deceit or misrepresentation in connection with services rendered as a pharmacist;
   b. 10 M.R.S. § 8003(5-A)(A)(2), violation of an applicable code of ethics or standard of practice in the practice of pharmacy; and
   c. 10 M.R.S. § 8003(5-A)(A)(7), continuing to work as a pharmacist when his license was expired.

13. Mr. Vanderwerken admits that he violated Board Rule Chapter 31 § 2(2), intentionally misrepresenting the type or status of license held or qualifications to practice and that such conduct constitutes grounds for disciplining him pursuant to 10 M.R.S. § 8003(5-A)(A)(5).

14. As DISCIPLINE for conduct admitted in paragraphs 11, 12 and 13 above, Mr. Vanderwerken agrees to do the following:
   a. Accept a REPRIMAND;
   b. Accept a SUSPENSION of his license to practice pharmacy, which will commence on March 1, 2012 at 9:00am and end on May 30, 2012 at 9:00am;
   c. Pay a CIVIL PENALTY in the amount of ten thousand dollars ($10,000.00). Payment shall be made by check or money order payable to the “Treasurer, State of Maine” and delivered to Kelly McLaughlin, Senior Consumer Assistance
Specialist, 35 State House Station, Augusta, Maine 04333-0035, prior to December 31, 2012;
d. Successfully complete the Board jurisprudence exam within 90 days of executing this Consent Agreement; and
e. Provide a copy of this Consent Agreement to each entity for which he does business in the present and in the future, and to any future employer.

15. Violation of any of the terms or conditions of this Consent Agreement by Mr. Vanderwerken shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of licensure or re-licensure.

16. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto.

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

18. This 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.

19. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.
20. Mr. Vanderwerken acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will, and that he agrees to abide by all terms and conditions set forth herein.

DATED: 2-15-14

MICHAEL G. VANDERWERKEN, R.Ph.

DATED: 3/1/2012

JOSEPH BRUNO, R.Ph., President
Maine Board of Pharmacy

DATED: 3-1-12

CARRIE L. CARNEY
Assistant Attorney General