

**STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS**

**DEPARTMENT OF HEALTH
HEALTH SERVICES REGULATION
BOARD OF PHARMACY**

**IN THE MATTER OF:
MITCHELL PHILOGENE (LICENSE #PH102800)**

VOLUNTARY SURRENDER

Pursuant to Rhode Island General Laws Section 5-19.1-21 and the Rules and Regulations promulgated thereunder, the Department of Health, Board of Pharmacy (hereinafter "Department") has investigated a complaint charging Mitchell Philogene (hereinafter "Respondent"), with violations of RIGL § 5-19.1-21 and Section 27 of the *Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers and Distributors*. After consideration by the Department, the following constitutes the Findings of Fact with respect to the professional performance of the Respondent

1. Respondent is licensed as a pharmacy technician I and holds license number PH102800.
2. While employed as a pharmacy technician I at CVS #2021 located at 205 Atwood Avenue, Cranston, RI, Respondent admitted to the diversion of the schedule IV controlled substance, Alprazolam ("Xanax") and the legend prescription drug, Azithromycin ("Zpak").
3. Respondent wishes to surrender his license as a pharmacy technician I.

The parties agree as follows:

1. Respondent is a pharmacy technician I and is able to conduct business under and by virtue of the laws of the State of Rhode Island.

2. Respondent admits to the jurisdiction of the Department and hereby agrees to remain under the jurisdiction of the Department.
3. Respondent has read this Voluntary Surrender Order and understands that it is a proposal of the Department and is subject to the final ratification by the Department. This Voluntary Surrender Order and the contents thereof are not binding on Respondent until final ratification by the Department.
4. Respondent hereby acknowledges and waives:
 - a) The right to appear personally or by counsel or both before the Department;
 - b) The right to produce witnesses and evidence in his behalf at a hearing;
 - c) The right to cross-examine witnesses;
 - d) The right to have subpoenas issued by the Department;
 - e) The right to further procedural steps except for those specifically contained herein;
 - f) Any and all rights of appeal of this Voluntary Surrender Order;
 - g) Any objection to the fact that this Voluntary Surrender Order will be presented to the Department for consideration and review;
 - h) Any objection to the fact that it will be necessary for the Department to become acquainted with all evidence pertaining to this matter in order to adequately review this Voluntary Surrender Order;
 - i) Any objection to the fact that the Department reviewing this Voluntary Surrender Order may be the same as the hearing committee presiding over this matter should it later be brought to an administrative hearing.
 - j) Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Voluntary Surrender Order to the Department.
5. This Voluntary Surrender Order shall become part of the public record of this proceeding once it is accepted by all parties and accepted by the Department.
6. Acceptance by the Respondent and approval by the Department of this Voluntary Surrender Order constitutes an admission of the facts contained herein.

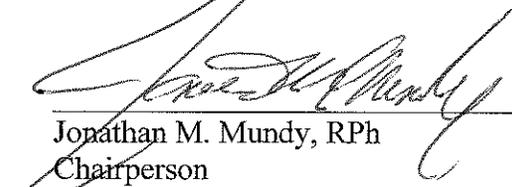
7. Respondent hereby voluntarily surrenders his license as a pharmacy technician I in the State of Rhode Island.
8. Respondent shall, in writing, request reinstatement of his license as a pharmacy technician I in the event that Respondent desires to resume practice in the State of Rhode Island. Once Respondent's request is approved by the Department, Respondent shall submit a new application to the Department and fulfill any and all requirements, fees, and continuing education requirements of the application.
9. In the event that Respondent applies or re-applies to the Department for licensure as a pharmacy technician I or II in this State, Respondent shall be subject to any disciplinary action that may arise when the facts contained herein are presented to the Board or delegated hearing officer upon submission of Respondent's application.

2/21/13
Date



Mitchell Philogene
License # PH102800

Approved on this 21 day of February 2013



Jonathan M. Mundy, RPh
Chairperson
Rhode Island Board of Pharmacy