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8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of:

Board Case 16-0007(A)-PHR

11
12 **Infinite Care Pharmacy**

**CONSENT AGREEMENT
FOR CIVIL PENALTY
AND INSPECTION**

13 Holder of Permit No. Y005583
14 In the State of Arizona

15
16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and the responsibilities of the Arizona State Board
18 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Infinite Care Pharmacy, Inc.
19 ("Respondent" or "Infinite Care Pharmacy"), holder of permit no. Y005583 in the State
20 of Arizona and the Board enters into the following Recitals, Findings of Fact,
21 Conclusions of Law and Order ("Consent Agreement") as a final disposition of this
22 matter.
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1 any other civil or criminal proceedings with respect to the conduct that is the subject of
2 this Consent Agreement.

3 8. Respondent acknowledges and agrees that, upon signing this Consent
4 Agreement and returning this document to the Board's Executive Director, Respondent
5 may not revoke acceptance of the Consent Agreement or make any modifications to the
6 document regardless of whether the Consent Agreement has been signed by the
7 Executive Director. Any modification to this original document is ineffective and void
8 unless mutually agreed by the parties in writing.

9 9. This Consent Agreement is subject to the approval of the Board and is
10 effective only when accepted by the Board and signed by the Executive Director. In the
11 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
12 be of no evidentiary value and shall not be relied upon nor introduced in any action by
13 any party, except that the parties agree that should the Board reject this Consent
14 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
15 Board was prejudiced by its review and discussion of this document or any records
16 relating thereto.

17 10. If a court of competent jurisdiction rules that any part of this Consent
18 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
19 shall remain in full force and effect.

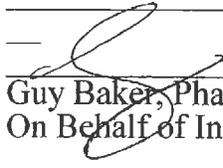
20 11. Respondent understands that this Consent Agreement is a public record that
21 may be publicly disseminated as a formal action of the Board and may be reported as
22 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
23 Protection Data Bank.

1 12. Respondent understands that any violation of this Consent Agreement
2 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
3 1901.01(A)(5) and (18); and A.R.S. § 32-1927(A)(1).

4 13. Respondent agrees that the Board will adopt the following Findings of Fact,
5 Conclusions of Law and Order.

6
7 ACCEPTED AND AGREED BY RESPONDENT

8 Dated: 5/16/16

9 
10 Guy Baker, Pharmacist-in-Charge
11 On Behalf of Infinite Care Pharmacy

12 **FINDINGS OF FACT**

13 1. The Board is the duly constituted authority for licensing and regulating the
14 practice of pharmacy in the State of Arizona.

15 2. During all relevant times to these findings, Guy Baker was the Pharmacist-
16 in-Charge at Infinite Care Pharmacy (the "Pharmacy") located at 28248 North Tatum
17 Boulevard, Suite B-4, Cave Creek, Arizona.

18 3. In June 2015, the Board conducted an inspection of the Pharmacy. The
19 inspection was predicated on a complaint that alleged improprieties in the filling and
20 shipment of prescriptions. As part of the inspection, the Board reviewed the Pharmacy's
21 dispensing report for May 2015. Seventy prescriptions were identified for hardcopy
22 review. Sixteen of those prescriptions were not found in the file folders. It is
23 Respondent's contention that three of those prescriptions were located and the remaining
24 13 were discontinued in the computer system and were never dispensed.

1 4. An additional 54 hardcopy prescriptions were obtained for review. Of
2 those prescriptions, 45 were out of state (43 Telemed) and nine were missing patient
3 information (addresses).

4 5. Of the nine prescriptions that were missing patient address information,
5 eight were confirmed in the computer as having no address information (6014320,
6 6014248, 6014243, 6013860, 6014245, 6014247, 6014218, 6013127).

7 6. With respect to the Pharmacy's Telemed prescription practices, the
8 Pharmacy received the prescriptions by email from sales@bronsonmedical.com to
9 pharmacist@infinitecarerx.com. The prescriptions would arrive as a pdf file. Despite
10 Respondent's representation in his response to the Board that the prescriptions were
11 received directly into the computer system, the Rx Source in the computer was listed as
12 Facsimile.

13 7. As to the 43 Telemed prescriptions, eight of the provider addresses on the
14 prescription could not be verified via NPI search or Google search (DP, DM, RW, RC,
15 TB, VP, EA, JW). A call to the number found at www.bronsonmedical.com was not
16 answered and there was not an option to leave a message.

17 8. In addition, of the 43 Telemed prescriptions reviewed (22 FTCCB, 21 Scar
18 be GONE), 42 of them had the direction changed without any documentation of receiving
19 authorization from the prescriber.

20 9. As part of the Board's investigation into this matter, Board staff spoke with
21 one patient, JK, via telephone. The patient stated that she had been contacted by phone
22 by someone who had all of her Tricare information. She assumed that they were familiar
23 with her injury since they offered to put her in contact with a physician about using a pain
24 cream. She was transferred to the physician during the call and received the cream in the
25 mail. The physician was not her regular physician.

26

1 402(A)(10)(a), (c), (d), A.A.C. R4-23-410(I)(1)(a)(i) and (ii) and (4)(b); A.A.C. R4-23-
2 402(C)(4); and 32-1968(A)(7) as it relates to A.A.C. R4-23-402(A)(7).

3 **ORDER**

4 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY
5 ORDERED THAT:

6 1. Respondent shall pay to the Board the sum of \$8,000.00 as a civil penalty
7 for the above-referenced violations. The civil penalty shall be paid in full to the Board
8 within six (6) months of the effective date of this Consent Agreement. The effective date
9 of this Consent Agreement is the date it is signed by the Board's Executive Director.

10 2. Within six (6) months from the effective date of this Consent Agreement,
11 Infinite Care Pharmacy shall be subject to and shall pass one (1) random unannounced
12 inspection. Respondent shall bear all costs associated with this inspection.

13 3. Respondent understands that this Consent Agreement is a public record that
14 may be publicly disseminated as a formal action.

15 4. If Respondent violates this Consent Agreement in any way or fails to fulfill
16 the requirements of this Consent Agreement, the Board, after giving the Respondent
17 notice and the opportunity to be heard, may revoke, suspend or take other disciplinary
18 actions against Respondent's permit. The issue at such a hearing will be limited solely to
19 whether this Consent Agreement has been violated.

20
21 DATED this 8th day of June, 2016.

22 (Seal) ARIZONA STATE BOARD OF PHARMACY

23
24
25 By: 
KAMLESH GANDHI, PharmD
26 Executive Director

1 ORIGINAL OF THE FOREGOING FILED
this 8th day of June, 2016 with:

2 Arizona State Board of Pharmacy
3 1616 W. Adams Street
Phoenix, Arizona 85007

4 EXECUTED COPY OF THE FOREGOING MAILED
5 BY CERTIFIED MAIL

this 6th day of July, 2016 to:

6
7 Infinite Care Pharmacy
8 28248 North Tatum Boulevard, Suite B-4
Cave Creek, Arizona 85331
Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED
10 this 6th day of July, 2016 to:

11 Marc Harris
12 Assistant Attorney General
13 1275 W. Washington Street, SGD/LES
Phoenix, Arizona 85007
Attorney for the Board

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15 _____
Doc #4807552