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

10
11 In the Matter of

Board Case No. 16-0021-PHR

12 **JOHN MAKOWSKY, Pharmacist**

**CONSENT AGREEMENT
FOR CIVIL PENALTY AND
CONTINUING EDUCATION**

13 Holder of License No. S011388
14 As a Pharmacist
15 In the State of Arizona

16
17 In the interest of a prompt and judicious settlement of this case, consistent with the
18 public interest, statutory requirements and the responsibilities of the Arizona State Board
19 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, John Makowsky.
20 ("Respondent"), holder of Pharmacist License S011388 in the State of Arizona, and the
21 Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
22 ("Consent Agreement") as a final disposition of this matter.

23 **RECITALS**

24 1. Respondent has read and understands this Consent Agreement and has had
25 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
26 opportunity to discuss this Consent Agreement with an attorney.

1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning this matter at which hearing he could present evidence and cross
3 examine witnesses. By entering into this Consent Agreement, Respondent knowingly
4 and voluntarily relinquishes all right to such an administrative hearing, as well as rights
5 of rehearing, review, reconsideration, appeal, judicial review or any other administrative
6 and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 complaint number 4476 involving allegations of unprofessional conduct against
13 Respondent. The investigation into these allegations against Respondent shall be
14 concluded upon the Board's adoption of this Consent Agreement and Respondent's
15 compliance with the same.

16 6. Respondent understands that this Consent Agreement does not constitute a
17 dismissal or resolution of any other matters currently pending before the Board, if any,
18 and does not constitute any waiver, express or implied, of the Board's statutory authority
19 or jurisdiction regarding any other pending or future investigation, action or proceeding.

20 7. Respondent also understands that acceptance of this Consent Agreement
21 does not preclude any other agency, subdivision, or officer of this State from instituting
22 any other civil or criminal proceedings with respect to the conduct that is the subject of
23 this Consent Agreement.

24 8. Respondent acknowledges and agrees that, upon signing this Consent
25 Agreement and returning this document to the Board's Executive Director, he may not
26

1 revoke his acceptance of the Consent Agreement or make any modifications to the
2 document regardless of whether the Consent Agreement has been signed by the
3 Executive Director. Any modification to this original document is ineffective and void
4 unless mutually agreed by the parties in writing.

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

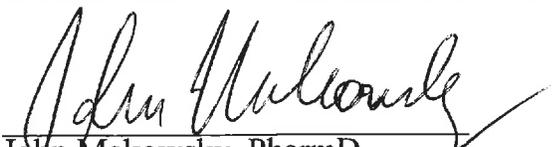
13 10. If a court of competent jurisdiction rules that any part of this Consent
14 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
15 shall remain in full force and effect.

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

20 12. Respondent understands that any violation of this Consent Agreement
21 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
22 1901.01(B)(20), -1927(A) (1).

23 13. Respondent agrees that the Board will adopt the following Findings of Fact,
24 Conclusions of Law and Order.
25
26

1 ACCEPTED AND AGREED BY RESPONDENT

2 
3 _____
4 John Makowsky, PharmD
Licensed Pharmacist

Dated: 10-15-16

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6 **FINDINGS OF FACT**

7 1. The Board is the duly constituted authority for licensing and regulating the
8 practice of pharmacy in the State of Arizona.
9

10 2. Respondent is the holder of license number S011388 to practice as a
11 Pharmacist in the State of Arizona.

12 3. During all relevant times to these findings, Respondent was acting as a
13 relief pharmacist at Kachina Pharmacy located at 2180 S. 4th Avenue, Yuma, AZ 85365.
14

15 4. The complaint was filed by Ayrn O'Connor, M.D., with Banner Health,
16 concerning patient A.B., then a 6 month old female.

17 5. The patient's physician wrote a prescription for Clonidine
18 (10mcg/ml)(micrograms); the prescription called for the patient to be given 0.5ml by
19 mouth twice daily. The prescription was compounded as an oral solution.
20

21 6. On 11/27/2015, the pharmacy technician performed the compounding of
22 the prescription and pharmacist John Makowsky (S011388) supervised the process and
23 conducted the DUR and final check.

24 7. The prescription was sold three days later on 11/30/2015, with PIC David
25 Platt (S007874) on duty. Records indicate that counseling was declined.
26

1 1. Pay a civil penalty to the Board in the amount of \$500.00 within 180 days
2 of the effective date of this Order; and

3 2. Successfully complete and provide proof of successful completion to the
4 Board of four (4) contact hours (0.4 C.E.U.) of American Council on Pharmaceutical
5 Education course(s) on the topic of **medication errors/patient safety**. The required
6 course(s) must be completed within **six (6) months** of the effective date on this Order.
7 The effective date of the Order is the date it is signed by the Board's Executive Director.

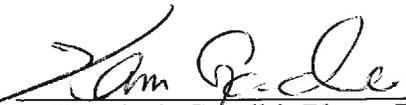
8 3. Respondent shall pay all costs associated with complying with this Consent
9 Agreement.

10 4. If Respondent violates this Order in any way or fails to fulfill the
11 requirements of this Order, the Board, after giving the Respondent notice and the
12 opportunity to be heard, may revoke, suspend or take other disciplinary actions against
13 Respondent's license. The issue at such a hearing will be limited solely to whether this
14 Order has been violated.

15 DATED this 21st day of November, 2016.

17 ARIZONA STATE BOARD OF PHARMACY

18 (Seal)

19 By: 
20 Kamlesh Gandhi, PharmD.,
Executive Director

21 ORIGINAL OF THE FOREGOING FILED
22 this 21st day of November, 2016, with:

23 Arizona State Board of Pharmacy
1616 W. Adams Street
24 Phoenix, Arizona 85007

25 COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL
26 this 21st day of November, 2016,

1 John Makowsky
14307 S, Avenue 4E
2 Yuma, AZ 85365

3
4 COPY OF THE FOREGOING MAILED
this 21st day of November, 2016, to:

5 Jeanne M. Galvin
Assistant Attorney General
6 1275 W. Washington Street, SGD/LES
Phoenix, Arizona 85007
7 Attorney for the Board

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9 Doc # 5165763

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