

1 MARK BRNOVICK  
2 Attorney General  
(Firm State Bar No. 14000)

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3 Jeanne M. Galvin  
4 Assistant Attorney General  
5 State Bar No. 015072  
6 1275 W. Washington, CIV/LES  
7 Phoenix, Arizona 85007-2997  
8 Tel: (602) 542-7983  
9 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

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

10 In the Matter of

11  
12 **JAY D. SANES, RPH**

13 Licensed Pharmacist  
14 No. S009333 in the  
15 State of Arizona

16 Respondent.

**BOARD CASE NO. 17-0004-PHR**

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

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18 In the interest of a prompt and judicious settlement of this case, consistent with the  
19 public interest, statutory requirements and the responsibilities of the Arizona State Board  
20 of Pharmacy ("Board") under A.R.S. § 32-1901, *et seq.*, and Jay D. Sanes, RPH  
21 ("Respondent"), holder of Pharmacist License Number S009333 in the State of Arizona,  
22 and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law  
23 and Order ("Consent Agreement") as a final disposition of this matter.

24 **RECITALS**

25 1. Respondent has read and understands this Consent Agreement and has had  
26 the opportunity to discuss this Consent Agreement with an attorney, or has waived the  
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 No. 4501 involving allegations of unprofessional conduct against Respondent.  
13 The investigation into these allegations against Respondent shall be concluded upon the  
14 Board's adoption of this Consent Agreement.

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

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

23          8.     Respondent acknowledges and agrees that, upon signing this Consent  
24 Agreement and returning this document to the Board's Executive Director, she may not  
25 revoke its acceptance of the Consent Agreement or make any modifications to the  
26 document regardless of whether the Consent Agreement has been signed by the

1 Executive Director. Any modification to this original document is ineffective and void  
2 unless mutually agreed by the parties in writing.

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

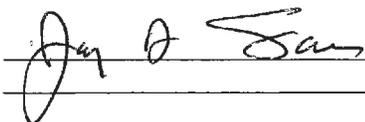
11 10. If a court of competent jurisdiction rules that any part of this Consent  
12 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement  
13 shall remain in full force and effect.

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

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

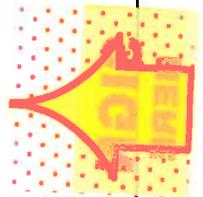
21 13. Respondent agrees that the Board will adopt the following Findings of Fact,  
22 Conclusions of Law and Order.

23 **ACCEPTED AND AGREED BY RESPONDENT**

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Dated: 10/27/16

26 Jay D. Sanes, RPH



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**FINDINGS OF FACT**

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

2. Respondent is a licensed pharmacist, holder of license no. S009333 in the State of Arizona.

3. During all times relevant to these findings, Respondent was employed as a pharmacist by Walgreen's located at 7114 N. Oracle Rd., Tucson, Arizona 85704.

4. Relating to patient L.D., pharmacy records indicate that Clonazepam 0.5 mg prescriptions for 30 tablets were filled on 6/3/2016, 6/18/2016/, 6/30/2016 and a prescription for 40 tablets was filled on 7/20/2106 (per a new prescription).

5. Respondent does not recall why the prescription was filled on 6/18/2016 (prior to the expiration of 30 days). Respondent did note in the DUR notes that the prescription was being filled early and should last until 7/3/2016 and that he counseled patient on proper dosing and use.

6. Respondent also filled the Clonazepam prescription on 6/30/2016. The DUR warning for the duplicate therapy was overridden by the Respondent.

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**CONCLUSIONS OF LAW**

1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant to A.R.S. § 32-1901 *et seq.*

2. The Board may discipline a licensed pharmacist who has engaged in unprofessional conduct. A.R.S. § 32-1927 (A) (1).



1 DATED this 21<sup>st</sup> day of November, 2016.

2 ARIZONA STATE BOARD OF PHARMACY

3 (Seal)

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5  
6 By: 

Kamlesh Gandhi, PharmD  
Executive Director

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8 ORIGINAL OF THE FOREGOING FILED  
this 21<sup>st</sup> day of November, 2016 with:

9 Arizona State Board of Pharmacy  
10 1616 W. Adams St.  
Phoenix, Arizona 85007

11 EXECUTED COPY OF THE FOREGOING MAILED  
12 BY CERTIFIED MAIL  
this 21<sup>st</sup> day of November, 2016 to:

13 Jay D. Sanes  
14 6935 N. Calle Amorcito  
15 Tucson, AZ 85718

16 EXECUTED COPY OF THE FOREGOING MAILED  
17 this 21<sup>st</sup> day of November, 2016 to:

18 Jeanne M. Galvin  
19 Assistant Attorney General  
1275 W. Washington Street, SGD/LES  
Phoenix, Arizona 85007  
Attorneys for the Board

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21  
22 Doc #5314353