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7 of Pharmacy

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

10 In the Matter of

11 **MICHAEL YOHA,**

12 Holder of License No. 13936  
For the Practice of Pharmacy  
13 In the State of Arizona

Board Case No. 06-0015-PHR

**CONSENT AGREEMENT FOR  
SUSPENSION AND PROBATION**

14  
15 **RECITALS**

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") and under A.R.S. §§ 32-1901, *et. seq.* and 41-1092.07(F)(5),  
19 Michael Yoha ("Respondent"), holder of Pharmacist License Number 13936 to practice  
20 pharmacy in the State of Arizona, and the Board enter into the following Recitals,  
21 Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final  
22 disposition of this matter.

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

1           2.     Respondent understands that he has a right to a public administrative  
2 hearing concerning the above-captioned matter, at which hearing he could present  
3 evidence and cross examine witnesses. By entering into this Consent Agreement,  
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative  
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or  
6 any other administrative 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. 3092 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.     All admissions made by the Respondent in this Consent Agreement are  
24 made solely for the final disposition of this matter, and any related administrative  
25 proceedings or civil litigation involving the Board and Respondent. Therefore, any  
26

1 admissions made by Respondent in this Consent Agreement are not intended for any  
2 other use, such as in the context of another regulatory agency's proceedings, or civil or  
3 criminal proceedings, whether in the State of Arizona or in any other state or federal  
4 court.

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

11 10. Respondent understands that the Consent Agreement shall not become  
12 effective unless and until adopted by the Board and signed by its Executive Director.

13 11. 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.

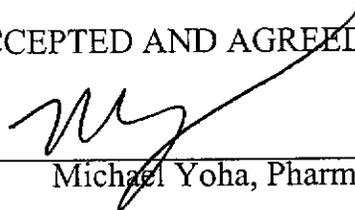
16 12. Respondent understands and agrees that if the Board does not adopt this  
17 Consent Agreement, he will not assert as a defense that the Board's consideration of this  
18 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

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

23 14. Respondent understands that any violation of this Consent Agreement  
24 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-  
25 1901.01(B)(20), -1927(A)(1).

26

1 ACCEPTED AND AGREED BY RESPONDENT

2   
3 Michael Yoha, Pharm.D.

Dated: 5/9/2006

4 Subscribed and sworn to before me in the County of MARICOPA, State of ARIZONA,  
5 this 9~~th~~ day of MAY, 2006, by Michael Yoha, Pharm.D.

6   
7 NOTARY PUBLIC  
8  My Commission expires: June 28, 2007

9  
10 **FINDINGS OF FACT**

11 1. The Arizona State Board of Pharmacy ("Board") is the duly constituted  
12 authority for licensing and regulating the practice of pharmacy in the State of Arizona.

13 2. Michael Yoha, Pharm.D. ("Respondent") is the holder of license number  
14 13936 for the practice of pharmacy in the State of Arizona.

15 3. During the relevant times described in this Complaint, Respondent served  
16 as a Staff Pharmacist at John C. Lincoln Hospital, Deer Valley ("John C. Lincoln  
17 Hospital") and an on-call staff pharmacist at Del E. Webb Memorial Hospital ("Del E.  
18 Webb Hospital").

19 4. On or about December 29, 2005, John C. Lincoln Hospital, Deer Valley  
20 ("John C. Lincoln Hospital") terminated Respondent's employment as a staff pharmacist  
21 after discovering discrepancies in the records for narcotic medications he removed,  
22 administered and returned.

23 5. On or about January 3, 2006, John C. Lincoln Hospital reported to the DEA  
24 that it had lost approximately \$220 in controlled substance drugs through employee pil-  
25 ferage during the month of December 2005. The lost drugs included: Dilaudid, Morphine,  
26

1 Dexedrine, Hydromorphone and Cocaine. (A true and correct copy of the Hospital's Re-  
2 port of Theft or Loss of Controlled Substances to the DEA is attached hereto as Exhibit  
3 A.) The Hospital also reported the incident to the Board.

4 6. On or about January 9, 2006, Respondent signed a contract with Pharma-  
5 cists Assisting Pharmacists in Arizona ("PAPA").

6 7. In accordance with that contract, Respondent successfully completed inten-  
7 sive out-patient treatment for substance abuse.

8 8. On or about February 1, 2006, Del E. Webb Memorial Hospital ("Del E.  
9 Webb Hospital") terminated Respondent's employment as an on-call staff pharmacist  
10 after discovering discrepancies in the records for 10ml vials of Cocaine 4% he removed,  
11 administered and returned.

12 9. On or about February 3, 2006, Respondent provided a random urine sample  
13 that tested positive for cocaine metabolites.

14 10. On or about February 6, the PAPA program terminated Respondent's con-  
15 tract and referred him for intensive in-patient treatment for substance abuse.

16 11. The PAPA program also notified the Board that Respondent had violated  
17 his PAPA contract.

18 12. On or about February 8, 2006, John C. Lincoln Hospital revised its report to  
19 the DEA, indicating that it lost the following controlled substance drugs through employ-  
20 ee pilferage from September through December 2005: Dilaudid, Dexedrine, Hydromor-  
21 phone, Cocaine, and Meperidine. (A true and correct copy of the Hospital's Report of  
22 Theft or Loss of Controlled Substances to the DEA is attached hereto as Exhibit B.)

23 13. On or about February 24, 2006, Del E. Webb reported Respondent's  
24 diversion of controlled substance drugs to the Board. (A true and correct copy of the  
25 Hospital's Letter to the Board is attached hereto as Exhibit C.)  
26



1 drugs to such a degree as to render the licensee unfit to practice the profession of  
2 pharmacy.”).

3 **ORDER**

4 Based upon the above Findings of Fact and Conclusions of Law and under the  
5 authority granted to the Board, under A.R.S. §§ 32-1928, 41-1092.07(F)(5), and A.A.C.  
6 R4-23-122(C),

7 IT IS HEREBY ORDERED THAT Pharmacist License No. 13936, which was  
8 issued to Michael Yoha for the practice of Pharmacy in the State of Arizona, is hereby  
9 placed on suspension for a period of not less than six (6) months but not more than one  
10 (1) year effective March 17, 2006. The period of suspension shall be determined by the  
11 Board after receiving a recommendation from the PAPA Steering Committee.  
12 Thereafter, Respondent’s license shall be placed on probation for a period of at least four  
13 (4) years, but not more than four and one-half (4.5) years from the final date of  
14 suspension. Respondent’s disciplinary period under the suspension and probation shall  
15 not exceed five (5) years, unless Respondent affirmatively fails to petition the Board to  
16 terminate the probation in accordance with paragraph 10 below.

17 The suspension and probation are subject to the following conditions:

- 18 1. Respondent shall immediately return his pharmacist license to the  
19 Board for the period of suspension.
- 20 2. Respondent shall, within ten days of the effective date of this order,  
21 sign a five (5) year contract with PAPA and abide by each and every requirement  
22 of the PAPA contract. Failure to sign a PAPA contract or abide by the PAPA  
23 contract’s terms is a violation of this Order.
- 24 3. Respondent shall furnish all pharmacy employers with a copy of this  
25 Board Order throughout the term of his probation.

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4. Respondent shall not serve as a preceptor pharmacist or pharmacist in charge throughout the term of his probation.

5. Respondent shall advise the Board immediately of any change in pharmacy employment status throughout the term of his probation.

6. Respondent shall furnish the Board with a list of all jurisdictions in which he maintains or has maintained licensure in the profession of pharmacy along with the registration numbers of said licenses.

7. Respondent shall complete four hundred (400) hours of community service approved by the Board staff before the termination of the probation period.

8. Respondent shall obey all federal and state laws and rules governing the practice of pharmacy.

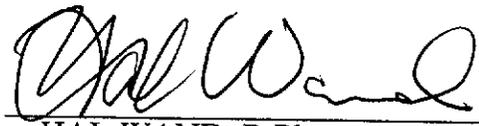
9. If Respondent violates this order in any way or fails to fulfill the requirements of this order, the Board, after giving the respondent notice and the opportunity to be heard, may revoke, suspend or take other disciplinary actions against the Respondent's license. The issue at such a hearing will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

10. Respondent shall appear before the Board at a regularly scheduled Board meeting five years after the effective date of this Order to request that the probation imposed by this order be terminated. Respondent's failure to petition the Board to terminate the probation shall extend the probation period.

DATED this 24<sup>th</sup> day of July, 2006.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By:   
HAL WAND, R.Ph.  
Executive Director

1 ORIGINAL OF THE FORGOING FILED  
2 this 26 day of May 2006, with:

3 Arizona State Board of Pharmacy  
4 4425 W. Olive Avenue, Suite 140  
5 Glendale, Arizona 85302

6 EXECUTED COPY OF THE FOREGOING MAILED  
7 BY CERTIFIED MAIL

8 this 26 day of May, 2006, to:

9 Michael Yoha  
10 38305 N. 20th Drive  
11 Phoenix, Arizona 85086  
12 Respondent

13 EXECUTED COPY OF THE FOREGOING MAILED  
14 this \_\_\_\_\_ day of \_\_\_\_\_, 2006, to:

15 Stephen Wolf  
16 Assistant Attorney General  
17 1275 W. Washington Street, CIV/LES  
18 Phoenix, Arizona 85007  
19 Attorneys for the State of Arizona

*Tiffany [Signature]*

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