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7 Attorneys for the Arizona State Board of Pharmacy

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

10 In the Matter of

11 **DANIEL HOFFMAN,**
12 Holder of License No. S009423
As a Pharmacist
13 In the State of Arizona

Board Case No. 10-0060-PHR

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

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15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona State Board
17 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Daniel Hoffman
18 ("Respondent"), holder of Pharmacist License Number S009423 in the State of Arizona,
19 and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law
20 and Order ("Consent Agreement") as a final disposition of this matter.

21

RECITALS

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

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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 Nos. 3759 and 3760 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.

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, he may not
25 revoke his acceptance of the Consent Agreement or make any modifications to the
26

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

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6 event that the Board does not approve this Consent Agreement, it is withdrawn and shall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

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

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

19 12. All admissions made by the Respondent in this Consent Agreement are
20 made solely for the final disposition of this matter, and any related administrative
21 proceedings or civil litigation between the Board and Respondent. Therefore, any
22 admissions made by Respondent in this Consent Agreement are not admissible for any
23 other use, such as in the context of another regulatory agency's proceedings, or civil or
24 criminal proceedings, whether in the State of Arizona or in any other state or federal
25 court.

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

14. Although Respondent does not agree that all of the Findings of Fact and Conclusions of Law set forth in this Consent Agreement are supported by the evidence, Respondent acknowledges that if this matter proceeded to a formal administrative hearing, the Board could establish sufficient evidence that, if accepted by the finder of fact, would support a conclusion that Respondent's conduct constitutes unprofessional conduct. Therefore, Respondent has agreed to enter into this Consent Agreement as an economical and practical means of resolving this case.

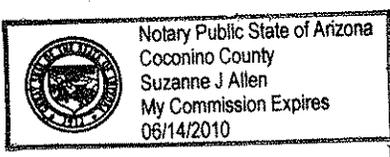
15. Respondent agrees that the Board will adopt the following Findings of Fact, Conclusions of Law and Order.

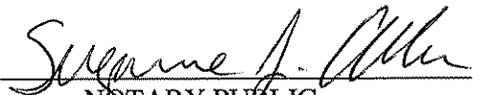
ACCEPTED AND AGREED BY RESPONDENT


Daniel Hoffman

Dated: 5/6/10

Subscribed and sworn to before me in the County of Coconino, State of Arizona, this 6th day of May, 2010, by Daniel Hoffman.




NOTARY PUBLIC

My Commission expires: 6/14/2010

FINDINGS OF FACT

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

4 2. Respondent is the holder of license number S009423 to practice as a
5 pharmacist in the State of Arizona.

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7 3. During all relevant times to these findings, Respondent was the pharmacist
8 in charge at Flagstaff Pharmacy (the "Pharmacy") in Flagstaff, Arizona.

9 4. In May 2009, patient KL's doctor called in a prescription for spironolactone
10 10 mg/HCTZ 10mg/ml. The medication was incorrectly entered as spironolactone 10
11 mg/ml. The medication was initially compounded correctly with the HCTZ. However, a
12 subsequent refill in June 2009 was compounded leaving out the HCTZ. The incorrect
13 medication was dispensed to KL and the patient used the incorrect medication.

14
15 5. Respondent was the data entry and compound verification pharmacist for
16 KL's May 2009 prescription.

17 6. In January 2010, an error was made on a formula worksheet for thyroid
18 medication. The amount of T3 on the formula worksheet was changed from 1.35 grams
19 to 13.5 grams. Respondent determined that four patients had been affected by two
20 batches. Respondent was the component verification pharmacist on both affected
21 batches. At least one patient, who was pregnant at the time, consumed the incorrect
22 medication and experienced side effects.
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1 CONCLUSIONS OF LAW

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

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

6 3. The conduct and circumstances described above constitutes unprofessional
7 conduct pursuant to A.R.S. § 32-1901.01(B)(2) (Violating any federal or state law, rule or
8 regulation relating to the manufacture or distribution of drugs and devices or the practice
9 of pharmacy).

10 4. The conduct described above violated Arizona Administrative Code R4-23-
11 402(A)(10)(b) (In dispensing a prescription medication from a prescription order, a
12 pharmacist shall check prescription order data entry to ensure that the data input is for the
13 correct drug by verifying the drug name, strength and dosage form).

14 5. The conduct described above violated Arizona Administrative Code R4-23-
15 410(I)(2)(a) (To ensure that each weight, measure, or subdivision is correct as stated in
16 the compounding procedures, a pharmacist shall check and recheck, or assume
17 responsibility to check and recheck, the operations at each stage of the compounding
18 process).

19 ORDER

20 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY
21 ORDERED THAT Respondent shall:

22 1. Pay a civil penalty of \$1,500.00 within **90 days** of the effective date of this
23 Order; and

24 2. Successfully complete and provide proof of successful completion to the
25 Board of eight (8) contact hours (0.8 C.E.U.) of American Council on Pharmaceutical
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1 Education (ACPE) courses on the topic of compounding and three (3) contact hours (0.3
2 C.E.U.) of ACPE courses on the topic of error prevention. The required courses must be
3 completed within **90 days** of the effective date of this Order, must be pre-approved by
4 Board staff, and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C.
5 R4-23-204.

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

11
12 DATED this 16th day of JULY, 2010.

13
14 ARIZONA STATE BOARD OF PHARMACY

15 (Seal)

16
17 By: 
18 HAL WAND, R.Ph.
19 Executive Director
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1 ORIGINAL OF THE FORGOING FILED
this 16 day of July, 2010, with:

2 Arizona State Board of Pharmacy
3 1700 West Washington, Suite 250
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED
6 BY CERTIFIED MAIL

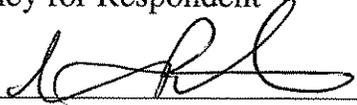
this 16 day of July, 2010, to:

7 Daniel Hoffman
8 1385 E. Bouteloua Bend
9 Flagstaff, Arizona 86001
10 Respondent

11 EXECUTED COPY OF THE FOREGOING MAILED
12 this 16 day of July, 2010, to:

13 Elizabeth A. Campbell
14 Assistant Attorney General
15 1275 W. Washington Street, CIV/LES
16 Phoenix, Arizona 85007
17 Attorney for the Board

18 Calvin R. Raup
19 Raup & Hergenroether, PLLC
20 One Renaissance Square
21 Two North Central Avenue, Suite 1100
22 Phoenix, Arizona 85004
23 Attorney for Respondent

24 
25 _____
26 #820316