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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 **MICHAEL EVANS,**

12 Holder of License No. S006159  
As a Pharmacist  
13 In the State of Arizona

Board Case No. 11-0044-PHR

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

14  
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.*, Michael Evans (“Respondent”),  
18 holder of Pharmacist License Number S006159 in the State of Arizona, and the Board  
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order  
20 (“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.  
25  
26

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. 3915 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, 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. Respondent understands that any violation of this Consent Agreement  
20 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-  
21 1901.01(B)(20), -1927(A)(1).

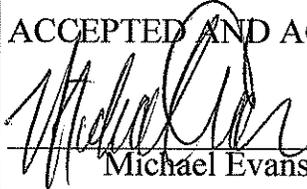
22 13. Respondent agrees that the Board will adopt the following Findings of Fact,  
23 Conclusions of Law and Order.

24 ...

25 ...

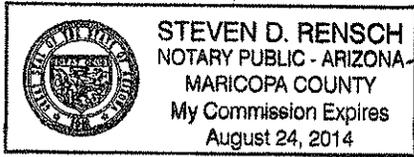
26 ...

1 ACCEPTED AND AGREED BY RESPONDENT

2   
3 Michael Evans

Dated: 5-25-2011

4 Subscribed and sworn to before me in the County of Maricopa, State of AZ,  
5 this 25 day of May, 2011, by Michael Evans



6   
7 NOTARY PUBLIC

8 My Commission expires: 8/24/14

9 **FINDINGS OF FACT**

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

12 2. Respondent is the holder of license number S006159 to practice as a  
13 pharmacist in the State of Arizona.

14 3. During all relevant times to these findings, Respondent worked as the  
15 pharmacist in charge at Bashas' United Drug #14 (the "Pharmacy") in Mesa, Arizona.

16 4. In June 2010, a patient had a prescription for vitamin D 1,000 unit tablets  
17 filled at the Pharmacy. The prescription was entered, verified, and dispensed as vitamin  
18 D 50,000 unit capsules. The patient took the incorrect medication for 6 months.

19 5. Respondent was the verification pharmacist and the pharmacist on duty  
20 when the medication was initially dispensed. Counseling was not documented.

21 **CONCLUSIONS OF LAW**

22 1. The Board possesses jurisdiction over the subject matter and over  
23 Respondent pursuant to A.R.S. § 32-1901 *et seq.*  
24  
25  
26





1 ORIGINAL OF THE FOREGOING FILED  
this 8 day of July, 2011, with:

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

5 EXECUTED COPY OF THE FOREGOING MAILED  
BY CERTIFIED MAIL

6 this 8 day of July, 2011, to:

NO CERT

PER M. EVANS

06-15-11 TNP

7 Michael Evans  
8 2317 N. Loma Vista  
9 Mesa, Arizona 85213  
10 Respondent

11 EXECUTED COPY OF THE FOREGOING MAILED  
12 this 8 day of July, 2011, to:

13 Ian Neale, Esq.  
14 Burch & Cracchiolo, P.A.  
15 702 East Osborn, Suite 200  
16 Phoenix, AZ 85014  
17 Attorney for Respondent

18 Elizabeth A. Campbell  
19 Assistant Attorney General  
20 1275 W. Washington Street, CIV/LES  
21 Phoenix, Arizona 85007  
22 Attorney for the Board

23 \_\_\_\_\_  
24 #1859528  
25  
26

CE + FINE =  
COMPLETED  
TNP