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2013 APR 25 AM 11 19

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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 **David Harris,**

12 Holder of License No. 015757
As a Pharmacist
13 In the State of Arizona

Board Case No. 13-0014-PHR

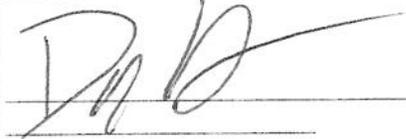
**CONSENT AGREEMENT
FOR CIVIL PENALTY**

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.*, David Harris ("Respondent"),
18 holder of Pharmacist License No. 015757 in the State of Arizona and the Board enter into
19 the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent
20 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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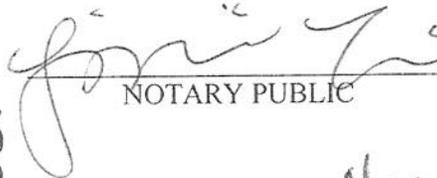
1 ACCEPTED AND AGREED BY RESPONDENT

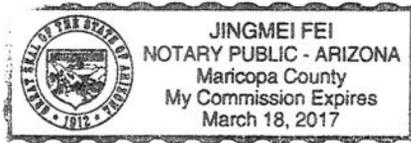
2 
3 _____

Dated: 4/19/13

4 David Harris

5 Subscribed and sworn to before me in the County of Maricopa, State of Arizona
6 this 19 day of April, 2013, by David Harris.

7 
8 _____
9 NOTARY PUBLIC



My Commission expires: Mar 18, 2017 (JF)

11 **FINDINGS OF FACT**

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

14 2. Respondent is the holder of license number 015757 to practice as a
15 pharmacist in the State of Arizona.

16 3. During all relevant times to these findings, Respondent worked as the
17 pharmacist-in-charge at Avella of Scottsdale (the "Pharmacy") located at 9777N. 91st St.
18 # C-102, Scottsdale, Arizona.

19 4. On or about June 16, 2011, a patient had a refill prescription for
20 Levothyroxine 125mcg SR incorrectly filled with Liothyronine 125 mcg SR at the
21 Pharmacy.
22

23 5. On June 22, 2011 the patient's wife returned to the Pharmacy concerned
24 that her husband had been admitted to a hospital for symptoms which might be related to
25
26

1 the medication he received from the Pharmacy on June 16, 2011. The patient's wife
2 presented a capsule of the medication dispensed and asked that it be tested for accuracy.
3 The pharmacist-in-charge, Douglas Massey, complied and on June 28, 2011 reported to
4 the patient that the medication was correct not realizing that he had requested testing to
5 verify that the capsule was Liothyronine 125 mcg SR as dispensed rather than testing to
6 verify that the capsule was Levothyroxine 125 SR as prescribed. Approximately two
7 days later the patient asked for the lab test results and at this time that the error in filling
8 the prescription was discovered.
9

10
11 6. Respondent was on duty at the Pharmacy when the incorrect medication
12 was dispensed but the verification log was not properly maintained to determine whether
13 Respondent or the pharmacist-in-charge on duty on June 16, 2011 had actually filled the
14 prescription.

15 CONCLUSIONS OF LAW

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

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

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

24 4. The conduct described above violated Arizona Administrative Code R4-23-
25 402(A) (11) (A pharmacist shall make a final accuracy check on the completed
26

1 prescription medication and manually initial the finished label. Manual initialing of a
2 finished label is not required if the pharmacy's computer system complies with the
3 computer documentation requirements of R4-23-408 (B) (4).

4 **ORDER**

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

7 1. Pay a civil penalty of \$250.00 within **90 days** of the effective date of this
8 Order; and

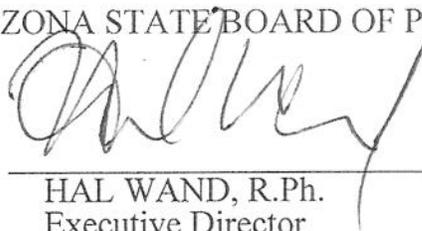
9 2. Respondent shall pay all costs associated with complying with this Consent
10 Agreement.

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

16 DATED this 10th day of May, 2013.

17
18
19 ARIZONA STATE BOARD OF PHARMACY

(Seal)

20
21 By: 

HAL WAND, R.Ph.
Executive Director

22
23 ORIGINAL OF THE FORGOING FILED
24 this 10 day of May, 2013, with:

25 Arizona State Board of Pharmacy
1616 W. Adams Street
26 Phoenix, Arizona 85007

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4/25/13

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COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL
this 10 day of May, 2013, to:

David Harris
9436 S. 47th Place
Phoenix, Arizona 85044
Respondent

COPY OF THE FOREGOING MAILED
this 10 day of May, 2013, to:

Montgomery Lee
Assistant Attorney General
1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the Board

Doc # 3196764

\$250.00
#1696
4-19-13