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

10 In the Matter of

11 **SHERWIN KAUFMAN,**

12 Holder of License No. S005932
As a Pharmacist
13 In the State of Arizona

Board Case No. 11-0027-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.*, Sherwin Kaufman
18 ("Respondent"), holder of Pharmacist License Number S005932 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 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. 3869 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).

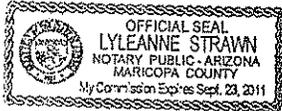
22 13. Respondent agrees that the Board will adopt the following Findings of Fact,
23 Conclusions of Law and Order.

24 ...
25 ...
26 ...

1 ACCEPTED AND AGREED BY RESPONDENT

2 Sherwin Kaufman Dated: 12/28/10
3 Sherwin Kaufman

4 Subscribed and sworn to before me in the County of Maricopa, State of Arizona
5 this 28th day of December, 2010, by Sherwin Kaufman.



7 Lyleanne Strawn
NOTARY PUBLIC

8 My Commission expires: Sept 23, 2011

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 S005932 to practice as a
13 pharmacist in the State of Arizona.
- 14 3. During all relevant times to these findings, Respondent worked as a
15 pharmacist at Walgreens Central Processing in Tempe, Arizona.
- 16 4. In September 2010, Respondent took a telephone order from a prescriber's
17 office for simvastatin 40 mg for patient CL. Respondent then took another telephone
18 order for chlorpromazine 50 mg for a different patient. The computer incorrectly filled in
19 CL as the patient name for the chlorpromazine prescription. CL had not been prescribed
20 chlorpromazine. The computer also incorrectly filled in the prescriber for the simvastatin
21 prescription as the prescriber for the chlorpromazine prescription. Respondent failed to
22 correct the patient name and the prescriber information for the chlorpromazine
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1 prescription and the prescription was submitted for filling. The chlorpromazine was
2 ultimately dispensed to patient CL, but CL did not take any.

3
4 CONCLUSIONS OF LAW

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

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

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

13 4. The conduct described above violated Arizona Administrative Code R4-23-
14 402(A)(1) (In dispensing a prescription medication from a prescription order, a
15 pharmacist shall receive, reduce to written form, and manually initial oral prescription
16 orders).

17 5. The conduct described above violated Arizona Administrative Code R4-23-
18 402(A)(2) (In dispensing a prescription medication from a prescription order, a
19 pharmacist shall obtain and record the name of an individual who communicates an oral
20 prescription order).

21 ORDER

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

24 1. Pay a civil penalty of \$1,000.00 within **90 days** of the effective date of this
25 Order; and
26

1 2. Successfully complete and provide proof of successful completion to the
2 Board of six (6) contact hours (0.6 C.E.U.) of American Council on Pharmaceutical
3 Education course(s) on the topic of error prevention. The required course(s) must be
4 completed within **90 days** of the effective date of this Order, must be pre-approved by
5 Board staff, and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C.
6 R4-23-204.

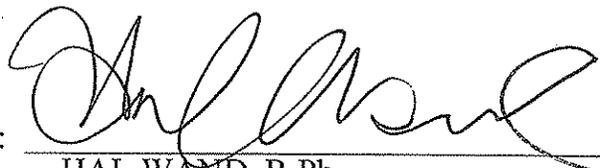
7 3. Respondent shall pay all costs associated with complying with this Consent
8 Agreement.

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

14
15 DATED this 27 day of January, 2011.

16
17 ARIZONA STATE BOARD OF PHARMACY

18 (Seal)

19
20 By: 
 HAL WAND, R.Ph.
 Executive Director

1 ORIGINAL OF THE FORGOING FILED
this 28 day of JAN, 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
this 28 day of JAN, 2011, to:

6 Sherwin Kaufman
7 518 W. Monte Vista
8 Phoenix, Arizona 85003
9 Respondent

10 EXECUTED COPY OF THE FOREGOING MAILED
this 28 day of JAN, 2011, to:

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

16 
17 _____
18 #1408136