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MAR 15 2011

AZ BOARD OF PHARMACY

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

10 In the Matter of,

11 **MIXTURES PHARMACY,**

12 Holder of Pharmacy Permit No. Y003896
13 in the State of Arizona

Board Case No. 11-0040-PHR

**CONSENT AGREEMENT
FOR CIVIL PENALTY AND
PROBATION**

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.*, Mixtures Pharmacy, L.L.C.
18 ("Mixtures Pharmacy"), holder of Pharmacy Permit Number Y003896 in the State of
19 Arizona ("Respondent"), and the Board enter into the following Recitals, Findings of
20 Fact, Conclusions of Law and Order ("Consent Agreement") as a final disposition of this
21 matter.

22 **RECITALS**

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 it has a right to a public administrative hearing
2 concerning this matter, at which hearing it could present evidence and cross examine
3 witnesses. By entering into this Consent Agreement, Respondent knowingly and
4 voluntarily relinquishes all right to such an administrative hearing, as well as rights of
5 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 its.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3765 involving allegations of unethical conduct against Respondent. The
13 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, it may not
25 revoke its 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 Board's Executive Director.
6 In the event that the Board does not approve this Consent Agreement, it is withdrawn and
7 shall be of no evidentiary value and shall not be relied upon nor introduced in any action
8 by 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 unethical conduct and may result in disciplinary action. A.R.S. §§ 32-
21 1901.01(A)(19), -1927.02(A)(1).

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

24 ...

25 ...

1 ACCEPTED AND AGREED BY RESPONDENT

2
3 [Signature]
Lori Allen, on behalf of
Mixtures Pharmacy

Dated: 3/10/11

4 Subscribed and sworn to before me in the County of Maricopa, State of AZ
5 this 10 day of March, 2011, by Lori Allen, on behalf of Mixtures Pharmacy.



6 [Signature]
NOTARY PUBLIC

7
8 My Commission expires: Aug 1 2014

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 Pharmacy Permit Number Y003896 allowing it
13 to operate as a pharmacy in Arizona.

14 3. During all relevant times to these findings, Lori Allen worked as
15 Respondent's pharmacist in charge.

16 4. In February 2010, a physician called in prescriptions for Cleocin® 75 mg/5
17 ml and rifampin 300 mg/5 ml. Ms. Allen was the data entry and verification pharmacist
18 for both prescriptions.

19 5. Ms. Allen added flavoring to the Cleocin®, but failed to document the
20 addition of the flavoring.

21 6. The quantity indicated on the rifampin prescription was for a 10-day
22 supply, and the prescription was data-entered for 27.5 ml. The compounding records
23 show that 22.5 ml was compounded, and 22.5 ml was dispensed to the patient. The
24
25
26

1 patient was not notified that an additional 5 ml was required to complete the prescription
2 for the full amount ordered. The correct amount was dispensed after the patient's mother
3 contacted the Respondent pharmacy.
4

5 CONCLUSIONS OF LAW

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

8 2. The Board may discipline a permittee who has engaged or whose employee
9 has engaged in unethical conduct. A.R.S. § 32-1927.02(A)(1).

10 3. The conduct and circumstances described above constitutes unprofessional
11 conduct pursuant to A.R.S. § 32-1901.01(A)(5) (Violating any federal or state law, rule
12 or regulation relating to the manufacture, sale or distribution of drugs, devices, poisons,
13 hazardous substances or precursor chemicals).

14 4. The conduct described above violated A.A.C. R4-23-410(I)(1)(a)(i) (A
15 pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements,
16 and complies with pharmaceutical product compounding procedures in either written
17 form or electronically stored with printable documentation to ensure that a finished
18 pharmaceutical product has the identity, strength, quality and purity it is purported or
19 represented to possess. The procedures include, for each pharmaceutical product
20 compounded, a description of the components, their manufacturer, lot number expiration
21 date, and amounts, the order of component addition, if applicable, and the compounding
22 process).

23 5. The conduct described above violated A.A.C. R4-23-402(A)(11) (In
24 dispensing a prescription medication from a prescription order, a pharmacist shall make a
25 final accuracy check on the completed prescription medication).
26

1 ORDER

2 1. Based upon the violation of A.A.C. R4-23-410(I)(1)(a)(i), Respondent shall
3 pay a civil penalty of \$500.00 within 90 days of the effective date of this Order;

4 2. Based upon the violation of A.A.C. R4-23-402(A)(11), Respondent shall
5 pay an additional civil penalty of \$500.00 also within 90 days of the effective date of this
6 Order; and

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

12 DATED this 8th day of MARCH, 2011.

13
14
15 ARIZONA STATE BOARD OF PHARMACY

16 (Seal)

17 By: 
18 HAL WAND, R.Ph.
19 Executive Director

20
21 Paid \$1,000-
22 # 5352
23 3-10-2011
24
25
26

1 ORIGINAL OF THE FORGOING FILED
this 21 day of MARCH, 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

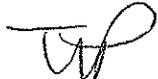
6 this 21 day of MARCH 2011, to:

7 Mixtures Pharmacy, LLC
8 16515 S. 40th Street, Suite 123
Phoenix, Arizona 85048
Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED
10 this 21 day of MARCH, 2011, to:

11 Kenneth R. Baker
12 Renaud, Cook, Drury and Mesaros, P.A.
13 One N. Central Ave., Suite 900
Phoenix, Arizona 85004
Attorney for Respondent

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

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17 _____
#1619757