03-0002-PHR

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of:

JEFFREY J. SZUBINSKI Pharmacist License Number 11841	))))	**CONSENT AGREEMENT AND ORDER FOR SUSPENSION AND PROBATION 03-0002-PHR**

DIRECTED TO: JEFFREY J. SZUBINSKI
20978 N. 81st Lane
Peoria, AZ 85382

RECITALS

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and the responsibilities of the Arizona State Board of Pharmacy ("Board") and pursuant to A.R.S. §§ 32-1901 *et seq* and 41-1092.07(F)(5), JEFFREY J. SZUBINSKI ("Respondent"), holder of pharmacist license number 11841 to practice pharmacy in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("CONSENT AGREEMENT") as a final disposition of this matter.

1. Respondent has read and understands this CONSENT AGREEMENT and has had the opportunity to discuss this CONSENT AGREEMENT with an attorney, or has waived the opportunity to discuss this CONSENT AGREEMENT with an attorney.

2. Respondent understands that he has a right to a public administrative hearing concerning each and every allegation set forth in the above-captioned matter, at which hearing he could present evidence and cross-examine witnesses. By entering into this CONSENT AGREEMENT, Respondent freely and voluntarily relinquishes all right to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters set forth herein. Respondent affirmatively agrees that this CONSENT AGREEMENT shall be irrevocable.

3. Respondent understands that this CONSENT AGREEMENT or any part of the agreement may

be considered in any future disciplinary action against him.

4. Respondent understands that this CONSENT AGREEMENT does not constitute a dismissal or resolution of any other matters currently pending before the Board, if any, and does not constitute any waiver, express or implied, of the Board statutory authority or jurisdiction regarding any other pending or future investigation, action or proceeding. Respondent also understands that acceptance of this CONSENT AGREEMENT does not preclude any other agency, subdivision, or officer of this State from instituting other civil or criminal proceedings with respect to the conduct that is the subject of this CONSENT AGREEMENT.

5. Respondent acknowledges and agrees that upon signing this CONSENT AGREEMENT and returning this document to the Board's Executive Director, Respondent may not revoke his acceptance of the CONSENT AGREEMENT or make any modifications to the document regardless of whether the CONSENT AGREEMENT has been signed by the Executive Director. Any modification to this original document is ineffective and void unless mutually agreed by the parties in writing.

6. Respondent understands that the foregoing CONSENT AGREEMENT shall not become effective unless and until adopted by the Board and signed by its Executive Director.

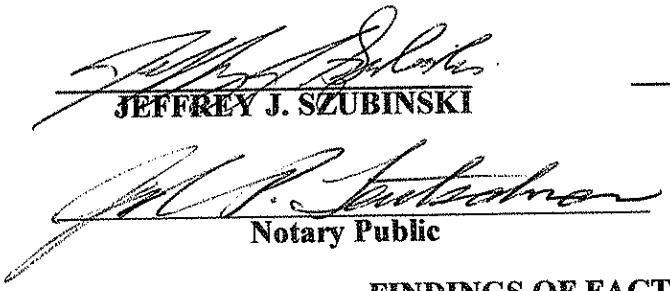
7. Respondent understands and agrees that if the Board does not adopt this CONSENT AGREEMENT, he will not assert as a defense that the Board's consideration of this CONSENT AGREEMENT constitutes bias, prejudice, prejudgement or other similar defense.

8. Respondent understands that this CONSENT AGREEMENT is a public record that may be publicly disseminated as a formal action of the Board and may be reported as required by law to the Health Care Integrity and Protection Data Bank.

9. Respondent understands that if he violates this Order in any way or fails to fulfill the requirements of this Order, the Board, after giving him notice and the opportunity to be heard, may revoke, suspend or take other disciplinary action against him. The sole issue at such hearing shall be whether or not he violated this Order.

. . .

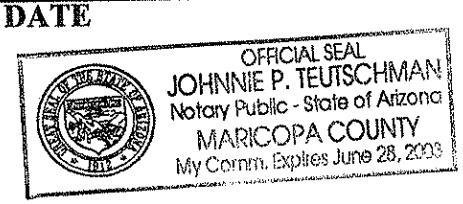
REVIEWED AND ACCEPTED BY:



JEFFREY J. SZUBINSKI

2-6-03

DATE



Notary Public

FINDINGS OF FACT

By stipulation of the parties, this CONSENT AGREEMENT is entered into for final disposition of the matters described herein. Respondent acknowledges that sufficient evidence exists for the Board to make the following Findings of Fact:

10. Between August 1, 2002 and November 20, 2002, Respondent removed one hundred and six (106) Fentanyl 50 mcg/ml., 20 ml. vials , a Class II Controlled Substance, as defined in A.R.S. § 36-2513 and 21 C.F.R. § 1308.12, from the narcotics vault at Thunderbird Samaritan Medical Center hospital pharmacy, for personal use, without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(B) and 21 C.F.R. § 1306.11.

11. Between August 1, 2002 and November 20, 2002, Respondent removed sixty-three (63) hydromorphone 10 mg/ml., 5 ml. vials , a Class II Controlled Substance, as defined in A.R.S. § 36-2513 and 21 C.F.R. § 1308.12, from the narcotics vault at Thunderbird Samaritan Medical Center hospital pharmacy, for personal use, without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(B) and 21 C.F.R. § 1306.11.

12. Between August 1, 2002 and November 20, 2002, Respondent removed one hundred and twenty-two (122) midazolam 5 mg/ml., 10 ml. vials , a Class IV Controlled Substance, as defined in A.R.S. § 36-2515 and 21 C.F.R. § 1308.14, from the narcotics vault at Thunderbird Samaritan Medical Center hospital pharmacy, for personal use, without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(B) and 21 C.F.R. § 1306.21.

14. On the 20th day of November, 2002, Respondent voluntarily surrendered his pharmacist license

to the Board staff awaiting disposition of the matters above.

CONCLUSIONS OF LAW

15. The conduct and circumstances described in the factual allegations above constitutes grounds for disciplinary action pursuant to A.R.S. § 32-1927(A)(10) :

> The licensee is found by the board to be guilty of violating any Arizona or federal law, rule or regulation relating to the manufacture and distribution of drugs, devices or the practice of pharmacy.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Board imposes the following:

16. It is ordered that the Respondent's license number 11841 to practice pharmacy in the State of Arizona be SUSPENDED until such time that the Board has determined, based on testimony from the Respondent and the administrator of the Pharmacists Assisting Pharmacists of Arizona (PAPA) program, that the Respondent has been rehabilitated and is able to safely resume the active practice of pharmacy, at which time the Board shall impose a five (5) year probation subject to the following conditions:

17. Respondent shall have entered into a five (5) year contract with the Pharmacists Assisting Pharmacists of Arizona (PAPA) and comply with each and every requirement of that contract.

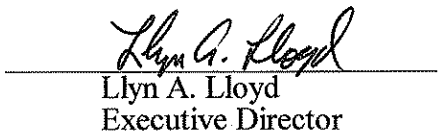
18. Respondent shall submit to a minimum of twenty-four (24) random biological fluid screenings annually for the presence of drugs in the system as determined by PAPA for the period of suspension and the first twenty-four (24) months of probation. The random biological fluid screenings for the presence of drugs in the system shall increase to a minimum of forty-eight (48) annually if Respondent accepts employment as a pharmacist and shall continue for the first twenty-four (24) months of probation.

19. RESPONDENT shall not serve as a preceptor pharmacist nor as a pharmacist in charge throughout the term of probation.

20. RESPONDENT shall receive approval from the Board or its designee before accepting employment in an Arizona licensed pharmacy.

DATED and EFFECTIVE this 19th day of June, 2003

ARIZONA STATE BOARD OF PHARMACY



Llyn A. Lloyd
Executive Director

ORIGINAL of the foregoing, fully executed, filed this 23rd day of June 2003, with:

Arizona State Board of Pharmacy
4425 W. Olive Avenue, #140
Glendale, AZ 85302

Fully Executed Copy of the foregoing sent via Certified US mail this 23rd day of June, 2003, to:

JEFFREY J. SZUBINSKI
20978 N. 81st Lane
Peoria, AZ 85382
Respondent