

1 TERRY GODDARD
Attorney General
2 (Firm State Bar No. 14000)

3 ELIZABETH A. CAMPBELL
Assistant Attorney General
4 State Bar No. 018311
1275 W. Washington, CIV/LES
5 Phoenix, Arizona 85007-2997
Tel: (602) 542-7681
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

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

10 In the Matter of

11 **GABRIEL WEEFAR,**

12 Holder of License No. S016257
As a Pharmacist
13 In the State of Arizona

Board Case No. 10-0023-PHR

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

14
15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and the responsibilities of the Arizona State Board
18 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Gabriel Weefar ("Respondent"),
19 holder of Pharmacist License Number S016257 in the State of Arizona, and the Board
20 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
21 ("Consent Agreement") as a final disposition of this matter.

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 the above-captioned matter, at which hearing he could present
3 evidence and cross examine witnesses. By entering into this Consent Agreement,
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
6 any other administrative 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. 3703 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. Respondent understands that the Consent Agreement shall not become
5 effective unless and until adopted by the Board and signed by its Executive Director.

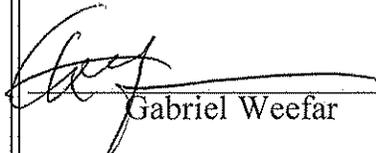
6 10. If a court of competent jurisdiction rules that any part of this Consent
7 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
8 shall remain in full force and effect.

9 11. Respondent understands and agrees that if the Board does not adopt this
10 Consent Agreement, he will not assert as a defense that the Board's consideration of this
11 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

12 12. Respondent understands that this Consent Agreement is a public record that
13 may be publicly disseminated as a formal action of the Board and may be reported as
14 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
15 Protection Data Bank.

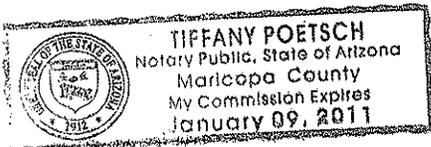
16 13. Respondent understands that any violation of this Consent Agreement
17 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
18 1901.01(B)(20), -1927(A)(1).

19 ACCEPTED AND AGREED BY RESPONDENT

20 
21 _____
Gabriel Weefar

Dated: 10-6-09

22 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
23 this 6th day of October, 2009, by Gabriel Weefar.



26 
NOTARY PUBLIC
My Commission expires: January 09, 2011

1 **FINDINGS OF FACT**

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

4 2. Respondent is the holder of license number S016257 to practice as a
5 pharmacist in the State of Arizona.

6 3. During all relevant times to these findings, Respondent worked as the
7 pharmacist in charge at Walgreens #7018 (the "Pharmacy") in Phoenix, Arizona.

8 4. In June 2009, a doctor called in a prescription for prelone 15 mg/5 ml syrup
9 for a seven-year old patient. The prescription order was taken by Respondent. The
10 doctor instructed that 2.6 teaspoons were to be given every morning for 2 weeks,
11 followed by 2.6 teaspoons every other day for 2 weeks. The Pharmacy incorrectly
12 entered the directions as 2.6 ml instead of 2.6 teaspoons, which resulted in the patient
13 receiving too little of the medication. Respondent did not catch the error upon review of
14 the data entry or when he verified the product.
15
16

17 **CONCLUSIONS OF LAW**

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

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

22 3. The conduct and circumstances described above constitutes unprofessional
23 conduct pursuant to A.R.S. § 32-1901.01(B)(2) (Violating any federal or state law, rule or
24 regulation relating to the manufacture or distribution of drugs and devices or the practice
25 of pharmacy).
26

1 4. The conduct described above violated Arizona Administrative Code R4-23-
2 402(A)(10)(c) (In dispensing a prescription medication from a prescription order, a
3 pharmacist shall check prescription order data entry to ensure that the data input
4 communicates the prescriber's directions precisely by verifying dose, dosage form, route
5 of administration, dosing frequency, and quantity).

6 5. The conduct described above violated Arizona Administrative Code R4-23-
7 402(A)(11) (In dispensing a prescription medication from a prescription order, a
8 pharmacist shall make a final accuracy check on the completed prescription medication).

9 **ORDER**

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

12 1. Pay a civil penalty of \$2,000.00 within **60 days** of the effective date of this
13 Order; and

14 2. Successfully complete and provide proof of successful completion to the
15 Board of eight (8) contact hours (0.8 C.E.U.) of American Council on Pharmaceutical
16 Education (ACPE) courses within **6 months** of the effective date of this Order. The
17 courses shall be pre-approved by Board staff, shall be limited to topics dealing with error
18 prevention, and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C.
19 R4-23-204.

20 DATED this 19th day of November, 2009.

21
22 ARIZONA STATE BOARD OF PHARMACY

23 (Seal)

24
25 By:



HAL WAND, R.Ph.
Executive Director

26
PAID \$2000.00
#2263
11-06-09

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ORIGINAL OF THE FORGOING FILED
this 20 day of November 2009, with:

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

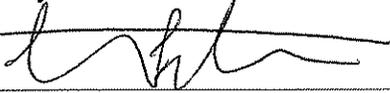
EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL

this 20 day of November 2009, to:

Gabriel Weefar
18330 N. 79th Avenue #2006
Glendale, Arizona 85308
Respondent

EXECUTED COPY OF THE FOREGOING MAILED
this 20 day of November, 2009, to:

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



#565037