

1 THOMAS C. HORNE
Attorney General
2 (Firm State Bar No. 14000)

3 MONTGOMERY LEE
Assistant Attorney General
4 State Bar No. 005658
1275 W. Washington, CIV/LES
5 Phoenix, Arizona 85007-2997
Tel: (602) 542-7980
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

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

10 In the Matter of

11 **Colin Gerber,**

12 Holder of License No. T036006
As a Pharmacy Technician Trainee
13 In the State of Arizona

Board Case No. 15-0007-PHR

**CONSENT AGREEMENT
AND ORDER FOR 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.*, Colin Gerber ("Respondent"),
18 holder of Pharmacy Technician Trainee License Number T036006 in the State of
19 Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions
20 of Law 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.

25 2. Respondent understands that he has a right to a public administrative
26 hearing concerning this matter at which hearing he could present evidence and cross

1 examine witnesses. By entering into this Consent Agreement, Respondent knowingly
2 and voluntarily relinquishes all right to such an administrative hearing, as well as rights
3 of rehearing, review, reconsideration, appeal, judicial review or any other administrative
4 and/or judicial action, concerning the matters set forth herein.

5 3. Respondent affirmatively agrees that this Consent Agreement shall be
6 irrevocable.

7 4. Respondent understands that this Consent Agreement or any part of the
8 agreement may be considered in any future disciplinary action by the Board against him.

9 5. Respondent understands this Consent Agreement deals with Board
10 complaint number 4345 involving allegations of unprofessional conduct against
11 Respondent. The investigation into these allegations against Respondent shall be
12 concluded upon the Board's adoption of this Consent Agreement.

13 6. Respondent understands that this Consent Agreement does not constitute a
14 dismissal or resolution of any other matters currently pending before the Board, if any,
15 and does not constitute any waiver, express or implied, of the Board's statutory authority
16 or jurisdiction regarding any other pending or future investigation, action or proceeding.

17 7. Respondent also understands that acceptance of this Consent Agreement
18 does not preclude any other agency, subdivision, or officer of this State from instituting
19 any other civil or criminal proceedings with respect to the conduct that is the subject of
20 this Consent Agreement.

21 8. Respondent acknowledges and agrees that, upon signing this Consent
22 Agreement and returning this document to the Board's Executive Director, he may not
23 revoke his acceptance of the Consent Agreement or make any modifications to the
24 document regardless of whether the Consent Agreement has been signed by the
25
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1 Executive Director. Any modification to this original document is ineffective and void
2 unless mutually agreed by the parties in writing.

3 9. This Consent Agreement is subject to the approval of the Board and is
4 effective only when accepted by the Board and signed by the Executive Director. In the
5 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
6 be of no evidentiary value and shall not be relied upon nor introduced in any action by
7 any party, except that the parties agree that should the Board reject this Consent
8 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
9 Board was prejudiced by its review and discussion of this document or any records
10 relating thereto.

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

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

18 12. Respondent understands that any violation of this Consent Agreement
19 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
20 1901.01(C) (16), -1927.01(A) (1).

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

23 ...

24 ...

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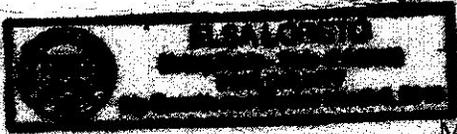
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1 ACCEPTED AND AGREED BY RESPONDENT

2
3 Colin Gerber
4 Colin Gerber

Dated: 10/08/2014

5 Subscribed and sworn to before me in the County of PIMA, State of ARIZONA,
6 this 8th day of OCTOBER, 2014, by Colin Gerber.



Edna Gerato
9 NOTARY PUBLIC

10 My Commission expires: 03/01/2018

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 T036006 to practice as a
15 pharmacy technician trainee in the State of Arizona.

16 3. During all relevant times to these findings, Respondent worked as a
17 pharmacy technician trainee at Target Pharmacy T-0036 located at 15444 North Frank
18 Lloyd Wright Blvd., Scottsdale, Arizona (the "Pharmacy").

19 4. On or about July 16, 2014 Respondent contacted Board staff to report that
20 he was being charged with the theft of drugs from the Pharmacy.
21

22 5. On or about July 23, 2014 Pharmacy personnel contacted Board staff to
23 report that Respondent had been terminated on July 15, 2014 from his employment at the
24 Pharmacy for theft of prescription medications including controlled substances.
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1 Pharmacy personnel reported that based on audits 6 tablets of Amphetamine salts 20 mg.,
2 4 tablets of Amphetamine salts 4 mg., 6 capsules of Vyvanse 40 mg., 11 capsules of
3 Amphetamine ER 25 mg., 1 tablet of Clonazepam and 2 tablets of Dextroamphetamine
4 10 mg. were missing. Pharmacy personnel reported that in an interview Respondent
5 admitted taking Lorsartan, Clonazepam, Adderal, Vyvanse and Amphetamines and
6 experimenting with the medications.
7

8 6. On or about July 21, 2014 Respondent contacted Board staff and admitted
9 that he had been terminated from his employment with the Pharmacy, that he had taken
10 the drugs from the Pharmacy and that he had ingested the prescription medications.
11

12 CONCLUSIONS OF LAW

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

15 2. The Board may discipline a pharmacy technician trainee who has engaged
16 in unprofessional conduct. A.R.S. § 32-1927.01(A) (1).

17 3. The conduct and circumstances described above constitutes unprofessional
18 conduct pursuant to A.R.S. § 32-1901.01(C) (2) (Violating a federal or state law or
19 administrative rule relating to the manufacture or distribution of drugs or devices).

20 4. The conduct and circumstances described above constitutes unprofessional
21 conduct pursuant to A.R.S. § 32-1901.01 (C) (6) (Committing a felony, whether or not
22 involving moral turpitude, or a misdemeanor involving moral turpitude or any drug
23 related offense).

24 5. The conduct and circumstances described above constitutes a violation of
25 A.R.S. § 32-1968 (A) (A prescription-only drug shall be dispensed only on a written or
26 electronically transmitted prescription from a licensed medical practitioner).

1 **ORDER**

2 Based upon the above Findings of Fact and Conclusions of Law, the Board hereby
3 issues the following Order:

4 1. Respondent's Pharmacy Technician Trainee License No. T036006 is hereby
5 placed on **PROBATION** for a period of five years upon adoption of this Consent
6 Agreement by the Board.

7 2. No later than October 22, 2014 Respondent shall be evaluated for
8 participation in and enter a five (5) year agreement with the Pharmacists Assisting
9 Pharmacists Program ("PAPA") and be placed on probation for a period of five (5) years
10 subject to the following terms and conditions:

11 A. Respondent's agreement with PAPA shall include participation in an
12 intensive outpatient treatment program.

13 B. No sooner than five (5) years from the beginning of Respondent's
14 probationary period, Respondent shall request in writing that the Board terminate
15 his probation. Respondent's request for termination will be considered at a
16 regularly scheduled Board meeting. Respondent is required to personally appear
17 at that Board meeting. Respondent's probationary period will continue until
18 Respondent's request for termination is received and the Board terminates the
19 probation.

20 C. Respondent shall continue to comply with the terms of his PAPA
21 agreement.

22 D. Respondent shall furnish all pharmacy employers with a copy of this
23 Consent Agreement. Respondent shall ensure that all pharmacy employers submit
24 to the Board a written acknowledgement that they have received a copy of this
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1 Consent Agreement within ten (10) days of entering into an employment
2 relationship with Respondent.

3 E. Respondent shall advise the Board within ten (10) days of any
4 change in pharmacy employment status.

5 3. Within five (5) years from the execution date of this Consent Agreement,
6 Respondent shall complete 400 hours of community service approved by Board staff.
7 Respondent shall ensure that all entities to which he provides community service verify
8 in writing to the Board the number of hours completed within 30 days of Respondent
9 completing the community service.

10 4. Respondent shall pay all necessary fees and complete all continuing
11 education requirements throughout the term of his probation.

12 5. Throughout the term of Respondent's probation, Respondent shall
13 personally appear before the Board when requested to do so by the Board or Board staff.

14 6. Respondent shall furnish the Board with a list of all jurisdictions in which
15 he maintains or has maintained licensure in the profession of pharmacy along with the
16 registration numbers of said licenses.

17 7. Respondent shall obey all federal and state laws and rules governing the
18 practice of pharmacy.

19 8. Respondent shall execute all appropriate release of information forms to
20 permit the Respondent's treatment professionals and PAPA to communicate with the
21 Board regarding Respondent's treatment.

22 9. Respondent shall pay all costs associated with complying with this Consent
23 Agreement, including all expenses associated with PAPA.

24 10. If during the term of this Consent Agreement Respondent applies for and is
25 granted a pharmacy intern license, a pharmacist license or any other license or permit
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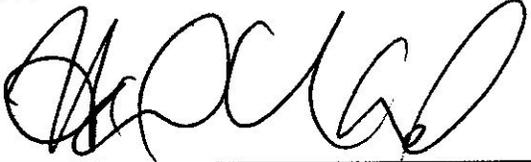
1 issued by this Board all of the terms and conditions of this Consent Agreement shall
2 apply to any such licenses. This provision is not intended to and does not extend the five
3 (5) year term of probation but intended to and automatically, without any other action
4 being required by the Board, imposes the probation and the terms ordered in this Consent
5 Agreement on any future license issued to Respondent for the remaining balance of this
6 Consent Agreement.

7 11. 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
13 DATED this 10 day of December, 2014.

14 ARIZONA STATE BOARD OF PHARMACY

15 (Seal)

16
17 By: 

18 HAL WAND, R.Ph.
Executive Director

19 ORIGINAL OF THE FOREGOING FILED
20 this 16 day of December, 2014, with:

21 Arizona State Board of Pharmacy
22 1616 W. Adams Street
23 Phoenix, Arizona 85007

24 COPY OF THE FOREGOING MAILED
25 BY CERTIFIED MAIL
26 this 16 day of December, 2014, to:

Colin Gerber
4617 E. Monte Cristo Ave.
Phoenix, AZ 85032
Respondent

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COPY OF THE FOREGOING MAILED
this 18 day of December, 2014, to:

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

Doc. #4166380