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2016 OCT 24 PM 3:56

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of **RICHARD B. TENNEY, CPht** Pharmacy Technician No. T014845 in the State of Arizona Respondent.	Board Case No. 16-0026-PHR **CONSENT AGREEMENT FOR CIVIL PENALTY and CONTINUING EDUCATION**

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") under A.R.S. § 32-1901, *et. seq.*, and Richard Tenney ("Respondent"), holder of Pharmacy Technician Certificate Number T014845 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.

RECITALS

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 this matter at which hearing he could present evidence and cross examine witnesses. By entering into this Consent Agreement, Respondent knowingly 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.

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

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

5. Respondent understands this Consent Agreement deals with Board Complaint No. 4409 involving allegations of unprofessional conduct against Respondent. The investigation into these allegations against Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

6. 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's statutory authority or jurisdiction regarding any other pending or future investigation, action or proceeding.

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

8. Respondent acknowledges and agrees that, upon signing this Consent Agreement and returning this document to the Board's Executive Director, he may not revoke its 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.

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 In the event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any action by any party, except that the parties agree that should the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

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

11. 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 National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

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

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

ACCEPTED AND AGREED BY RESPONDENT

Richard B Tenney Dated: 10-10-16

Richard Tenney, CPht

FINDINGS OF FACT

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

2. Respondent is a certified pharmacy technician, holder of pharmacy technician certificate no. T014845 in the State of Arizona.

3. During all times relevant to these findings, Respondent was employed as a pharmacy technician by Maricopa Medical Center located at 2601 E. Roosevelt St., Phoenix, Arizona 85008.

4. On May 21 and 22, 2013, patient D.C.'s healthcare provider issued an order for potassium chloride 0.81 meq in sodium chloride 0.9% by 20ml ("medication") to be administered to patient D.C.

5. Respondent prepared and compounded the medication. An error was made in the preparation of the infusion. Specifically, on May 22, 2013, Respondent utilized a concentrated 23.4% sodium chloride solution to mix an IV potassium supplement instead of a 0.9% solution as ordered for D.C. The supervising pharmacist, Yi-Ming Lee Stalder verified the ingredients and volumes presented for review but the error was not detected as the sodium chloride solution presented was marked 0.9% and Respondent verbally confirmed the solution.

6. The potassium chloride infusion dispensed for D.C. on May 22, 2013, contained a higher level of sodium than ordered. Within an hour of receiving the infusion, D.C. become seriously ill and two days later he passed away as a result of the sodium chloride overdose.

CONCLUSIONS OF LAW

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

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

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1901.01(C)(2) (Violating any federal or state law, administrative rule relating to the manufacture, sale or distribution of drugs, devices, poisons, hazardous substances or precursor chemicals).

ORDER

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

1. Respondent shall pay a civil penalty in the amount of $ 500.00 for the violations described above. The civil penalty shall be paid in full within sixty (60) days of the effective date of this Consent Agreement and order. The effective date of this Consent Agreement and Order is the date that it is signed by the Board's Executive Director.

2. Within six (6) months of the effective date of this Consent Agreement and Order, Respondent shall take and successfully complete the ASHP'S Guide to Chapter 797 Course 1 only. Within 3 weeks of completing the course, Respondent shall submit a

certificate of completion to the Board. This continuing education is in addition to the continuing education that is required for the renewal of Respondent's certificate and shall not be counted toward those continuing education credit hours required for renewal.

3. Respondent is responsible for all costs and fees associated with complying with this Consent Agreement and Order.

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

DATED this 21st day of November, 2016.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By: _____
Kamlesh Gandhi, PharmD
Executive Director

ORIGINAL OF THE FOREGOING FILED
this 21st day of November, 2016 with:

Arizona State Board of Pharmacy
1616 W. Adams St.
Phoenix, Arizona 85007

EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL
this 21st day of November, 2016 to:

Richard B. Tenney, CPht
1028 S. Somerset
Mesa, AZ 85206

Neil Alden
Jardine Baker Hickman & Houston
3300 N. Central Ave., Ste. 2600
Phoenix, AZ 85012-2514

EXECUTED COPY OF THE FOREGOING MAILED
this 21st day of November, 2016 to:

Jeanne M. Galvin
Assistant Attorney General
1275 W. Washington Street, SGD/LES
Phoenix, Arizona 85007
Attorneys for the Board

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