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SCANNED BY ASBP
JUN 15 2006

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of:

ERIKA BOYER, R.Ph.)
Pharmacist License)
Number 12846)
Respondent)
_____)

Investigation Case No. 03-0011-PHR
CONSENT AGREEMENT AND
STIPULATED ORDER
03-0011-PHR

CONSENT AGREEMENT

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 under A.R.S. §§ 32-1901 *et seq* and 41-1092.07(F)(5), Erika Boyer ("Respondent"), holder of pharmacist license number 12846 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 she has a right to a public administrative hearing concerning the above-captioned matter, at which hearing she 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 her.

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1 Respondent understands this CONSENT AGREEMENT deals with Board Investigation Case No.
2 03-0011-PHR involving allegations of unprofessional conduct against Respondent. The
3 investigation into these allegations against Respondent shall be concluded upon the Board's
4 adoption of this CONSENT AGREEMENT.

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

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

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

19 If a court of competent jurisdiction rules that any part of this CONSENT AGREEMENT is void
20 or otherwise unenforceable, the remainder of the CONSENT AGREEMENT shall remain in full
21 force and effect.

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

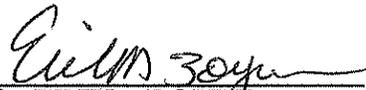
25 8. Respondent understands that this CONSENT AGREEMENT is a public record that may be
26 publicly disseminated as a formal action of the Board and may be reported as required by law to National

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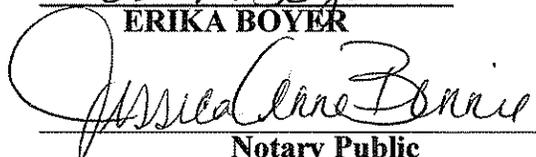
1 Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

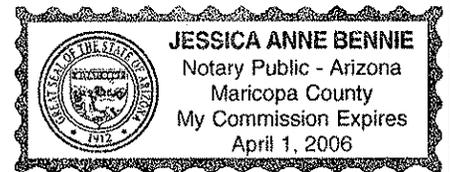
2 9. Respondent understands that if she violates this CONSENT AGREEMENT in any way or fails
3 to fulfill the requirements the CONSENT AGREEMENT, the Board, after giving her notice and the
4 opportunity to be heard at a hearing, may revoke, suspend or take other CONSENT AGREEMENT.

5 **REVIEWED AND ACCEPTED BY:**

6 
7 **ERIKA BOYER**

8 8/18/03
9 **DATE**

10 
11 **Notary Public**



12 **FINDINGS OF FACT**

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

16 10. Respondent is the holder of license 12846 which permits her to engage in the practice of
17 pharmacy in Arizona, and she was so engaged as a pharmacist at Walgreens' Drug #7026, located at
18 12244 W. Cactus Road, El Mirage, Arizona on March 11, 2003.

19 11. On March 11, 2003, patient C.B. picked up a prescription, that he had presented earlier the
20 same day, that was written for Valtrex 500mg tablets, prescription number 66251-7026. Respondent asked
21 patient C.B. "Have you ever taken the prescription before?" and patient C. B. replied that he had taken
22 the Valtrex before. Respondent then asked patient C.B. "Do you have any questions on the prescription?"
23 and patient C.B replied that he had no questions. Respondent failed to counsel patient C.B. on the
24 prescription, a violation of A.A.C. 4-23-402 (B)(2) and (C) , to wit:

25 B. Only a pharmacist, graduate intern, or pharmacy intern shall provide oral consultation about
26 a prescription medication to a patient or patient's agent in all outpatient settings, including a
patient discharged from a hospital. The oral consultation is required whenever the following
occurs:

- 2. A new prescription number is assigned to a previously dispensed prescription medication

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1 C. Oral consultation shall include:

- 2 1. The name, strength, and dosage form of a prescription medication or prescription-
3 only device;
- 4 2. The directions for use;
- 5 3. The route of administration; and
- 6 4. Special instructions, precautions, or storage requirements.

7 **CONCLUSIONS OF LAW**

8 12. The conduct and circumstances described in the factual allegations above constitutes grounds
9 for disciplinary action under A.R.S. §32-1927(A)(10):

10 **A.R.S. §32-1927(A)(10)** The license of any pharmacist or pharmacy intern may be revoked or
11 suspended or a pharmacist or pharmacy intern may be placed on probation by the board when:

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

15 **ORDER**

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

17 13. It is ordered that the Respondent's license number 12846 to practice pharmacy in the State
18 of Arizona be placed on PROBATION for a period of one (1) year commencing ten (10) days from the
19 date of this Order. The probation is subject to the following conditions:

20 14. Respondent shall pay a civil penalty of five hundred dollars (\$500.00) to the Board of
21 Pharmacy within sixty (60) days of the date of this Order for failing to provide oral consultation about a
22 prescription medication to a patient in an outpatient setting;

23 15. Respondent shall pay all fees and complete all Continuing Education requirements
24 throughout the term of probation to maintain Pharmacist License Number 12846;

25 16. Respondent shall obey all federal and state laws and rules governing the practice of
26 pharmacy;

17. Respondent shall not violate this CONSENT AGREEMENT in any way or fail to fulfill the
requirements of this CONSENT AGREEMENT, the Board, after giving the Respondent notice and the
opportunity to be heard at a hearing, may revoke, suspend or take other disciplinary action against the

1 Respondent. The issue at such hearing will be limited solely to whether this Board Order has been
2 violated;

3 18. Respondent shall appear before the Board at a regularly scheduled Board meeting on or after
4 August 28, 2004, to request termination of the probation.

5
6 **DATED and EFFECTIVE** this 28th day of August, 2003

7
8 **ARIZONA STATE BOARD OF PHARMACY**

9 

10 Hal Wand
11 Executive Director

12
13 **ORIGINAL** of the foregoing, fully executed,
14 filed this 28th day of August, 2003 with:

15 Arizona State Board of Pharmacy
16 4425 W. Olive Avenue, #140
17 Glendale, AZ 85302

18 Fully Executed Copy of the foregoing sent
19 via Certified US mail this 2nd day of September 2003, to:

20 ERIKA BOYER
21 13285 W. Redfield Road
22 Surprise, Arizona 85379
23
24
25
26

PAID

\$500.00 CK 9229 11-14-03

11/14/03

To: AZ State Board of Pharmacy

Re: \$500 fine for case no. 03-0011-PHR

This is my \$500 for the fine regarding my case.

Thank you,

ERIKA BOYER

Erika Boyer LIC.# 512846

Erika Boyer

ASBP RECEIPT INFORMATION (BY: State)

PAID BY: CASH CHECK 9229

AMOUNT: \$ 500.00

FOR: Civil Penalty

Receipt date: 9377

Receipt No: 11-17-03