

1 2003-16-H

2 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

3 In the Matter of:

4 Brent L. Randle
5 Holder of License No. 8360
6 For the Practice of Pharmacy
7 In the State of Arizona,
Respondent

Case Number 2003-16-PHR

**CONSENT AGREEMENT AND ORDER
FOR SUSPENSION AND PROBATION**

8 TO: Brent L. Randle
9 5782 E. Seneca
Tucson, Arizona 85712

10 **RECITALS**

11 In the interest of a prompt and judicious settlement of this case, consistent with the public interest,
12 statutory requirements and responsibilities of the Arizona State Board of Pharmacy ("Board"), and under
13 A.R.S. § 32-1928, *et seq.*, and 41-1092(F)(5), Brent L. Randle, holder of license number 8360 to practice
14 pharmacy in the State of Arizona ("Respondent"), and the Board enter into the following Recitals,
15 Finding of Fact, Conclusions of Law and Order ("Consent Agreement") as the final disposition of this
16 matter.

17 1. Respondent has read and understands this Consent Agreement as set forth herein, and has
18 had the opportunity to seek counsel from an attorney about this Consent Agreement. Respondent
19 voluntarily enters into this Consent Agreement for the purpose of avoiding the expense and uncertainty
20 of an administrative hearing.

21 2. Respondent understands that he has a right to a public administrative hearing concerning
22 the above-captioned matter, at which administrative hearing he could present evidence and cross-examine
23 witnesses. By entering into this Consent Agreement, Respondent freely and voluntarily relinquishes all
24 rights to such an administrative hearing, as well as all rights of rehearing, review, reconsideration, appeal,
25 judicial review or any other administrative and/or judicial action, concerning the matters set forth herein.

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

1 3. Respondent understands that this Consent Agreement or any part of the agreement may
2 be considered in any future disciplinary action against him.

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

9 5. Respondent understands that this Consent Agreement deals with a Board Investigative
10 Case involving allegations of unprofessional conduct against Respondent. The investigation into these
11 allegations against Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

12 6. All admissions made by Respondent in this Consent Agreement are made solely for the
13 final disposition of this matter, and any related administrative proceedings or civil litigation involving
14 the Board and Respondent. Therefore, any admissions made by Respondent in this Consent Agreement
15 are not intended for any other use, such as in the context of another regulatory agency proceedings, or
16 civil or criminal proceedings, whether in the State of Arizona or in any other state or federal court.

17 7. Respondent acknowledges and agrees that, upon signing this Consent Agreement and
18 returning this document to the Board's Executive Director, Respondent may not revoke his acceptance
19 of the Consent Agreement or make any modifications to the document, regardless of whether the Consent
20 Agreement has been issued by the Board's President or Executive Director. Any modification to this
21 original document is ineffective and void unless mutually approved by the parties in writing.

22 8. Respondent understands that the foregoing Consent Agreement shall not become effective
23 unless and until adopted by the Board and signed by its President or Executive Director.

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

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

11. Respondent understands that any violation of this Consent Agreement constitutes unprofessional conduct under A.R.S. §32-1927(A)(17)(the licensee violated a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter) and may result in disciplinary action under A.R.S. § 32-1927.

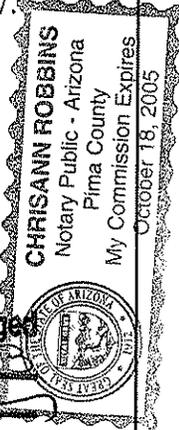
DATED: 12-5-03

Brent L. Randle
Brent L. Randle

Reviewed and Approved as to form:

By: _____
(Insert Name of Attorney, if any), Esq.
Attorney for Respondent

STATE OF ARIZONA
COUNTY OF Pima
The foregoing instrument was acknowledged
before me this 5 day of Dec 20 03
By Chrisann Robbins
Notary Public
My Commission Expires: 10/18/05



FINDINGS OF FACT

By stipulation of the parties, this Consent Agreement is entered into for final disposition of the matters described therein. Respondent admits to the following Finding of Fact:

12. The Board possesses jurisdiction over the subject matter and over Respondent as a licensee of the Board, under A.R.S. § 32-1901, et seq.

13. The Board is the duly constituted authority for the regulation and control of the practice of pharmacy in the State of Arizona.

14. Respondent is the holder of License No. 8360 for the practice of pharmacy in the State of Arizona.

15. Respondent was employed as a staff pharmacist between the dates of May 23, 2002 and November 23, 2003 at Fry's Food and Drug #131, located at 2480 N. Swan, Tucson Arizona.

16. On or about June 15, 2002, Respondent filled and dispensed a prescription for Zyprexa 20 mg. tablets, prescription number 6544329, allegedly written by Dr. Steven Bupp for patient B.G.,

1 without a valid prescription from a medical practitioner. Dr. Steven Bupp signed a statement that stated
2 he did not have a patient B.G. and he did not prescribe the medication to patient B.G.

3 17. On or about June 15, 2002, Respondent filled and dispensed a prescription for Zyprexa 15
4 mg. tablets, prescription number 6544330, allegedly written by Dr. Bethann Mahoney for patient F.D.,
5 without a valid prescription from a medical practitioner. Dr. Bethann Mahoney signed a statement that
6 stated she did not have a patient F.D. and she did not prescribe the medication to patient F.D.

7 18. On or about June 18, 2002, Respondent filled and dispensed a prescription for Zyprexa
8 20 mg. tablets, prescription number 6544397, allegedly written by Dr. Steven Bupp for patient B.W.,
9 without a valid prescription from a medical practitioner. Dr. Steven Bupp signed a statement that stated
10 he did not have a patient B.W. and he did not prescribe the medication to patient B.W.

11 19. On or about September 10, 2002, Respondent filled and dispensed a prescription for
12 Zyprexa 20 mg. tablets, prescription number 6548182, allegedly written by Dr. Steven Bupp for patient
13 D.R., without a valid prescription from a medical practitioner. Dr. Steven Bupp signed a statement that
14 stated he did not have a patient D.R. and he did not prescribe the medication to patient D.R. Patient D.R.
15 signed a statement attesting that she did not receive the medication, Dr. Bupp is not her physician, and
16 Fry's Drug #131 is not her pharmacy.

17 20. On or about October 18, 2002, Respondent filled and dispensed a prescription for
18 Zyprexa 20 mg. tablets, prescription number 6550101, allegedly written by Dr. Steven Bupp for patient
19 C.S., without a valid prescription from a medical practitioner. Dr. Steven Bupp signed a statement that
20 stated he did not have a patient C.S. and he did not prescribe the medication to patient C.S.

21 21. On or about October 26, 2002, Respondent filled and dispensed a prescription for
22 Zyprexa 20 mg. tablets, prescription number 6550448, allegedly written by Dr. Everett Rogers for
23 patient A.J., without a valid prescription from a medical practitioner. Dr. Everett Rogers signed a
24 statement that stated he did not have a patient A.J. and he did not prescribe the medication to patient A.J.

25 22. On or about November 1, 2002, Respondent filled and dispensed a prescription for
26 Zyprexa 20 mg. tablets, prescription number 6550735, allegedly written by Dr. Everett Rogers for

1 patient V.B., without a valid prescription from a medical practitioner. Dr. Everett Rogers signed a
2 statement that stated he did not have a patient V.B. and he did not prescribe the medication to patient
3 V.B.

4 23. On or about December 7, 2002, Respondent filled and dispensed a prescription for
5 Zyprexa 20 mg. tablets, prescription number 6552429, allegedly written by Dr. Harry Goldwasser for
6 patient P.G., without a valid prescription from a medical practitioner. Dr. Harry Goldwasser signed a
7 statement that stated he did not have a patient P.G. and he did not prescribe the medication to patient
8 P.G.

9 24. On or about March 6, 2003, Respondent filled and dispensed a prescription for Zyprexa
10 20 mg. tablets, prescription number 6556597, allegedly written by Dr. Everett Rogers for patient D.S.,
11 without a valid prescription from a medical practitioner. Dr. Everett Rogers signed a statement that stated
12 he did not have a patient D.S and he did not prescribe the medication to patient D.S.

13 25. On or about March 25, 2003, Respondent filled and dispensed a prescription for Zyprexa
14 20 mg. tablets, prescription number 6557446, allegedly written by Dr. Michael Mardis for patient M.W.,
15 without a valid prescription from a medical practitioner. Dr. Michael Mardis signed a statement that
16 stated he did not have a patient M.W. and he did not prescribe the medication to patient M.W.

17 26. On or about April 4, 2003, Respondent filled and dispensed a prescription for Zyprexa
18 20 mg. tablets, prescription number 6557955, allegedly written by Dr. Harry Goldwasser for patient W.J.,
19 without a valid prescription from a medical practitioner. Dr. Harry Goldwasser signed a statement that
20 stated he did not have a patient W.J. and he did not prescribe the medication to patient W.J. Patient W.J.
21 signed a statement attesting that she did not receive the medication, Dr. Goldwasser is not her physician,
22 and Fry's Drug #131 is not her pharmacy.

23 27. On or about November 23, 2003, Respondent filled and dispensed a prescription for
24 Zyprexa 20 mg. tablets, prescription number 6551814, allegedly written by physician assistant Priscilla
25 Tellis for patient J.C., without a valid prescription from a medical practitioner. Priscilla Tellis signed a
26 statement that stated she did not have a patient J.C. and she did not prescribe the medication to patient

1 J.C.

2 28. The prescription hardcopies for the prescriptions listed in paragraphs 16 through 27 were
3 not filed at Fry's Drug #131 and could not be located.

4 29 All of the prescriptions listed in paragraphs 16 through 27 were fraudulently billed to
5 AdvancePCS through a manufacturer's coupon.

6 30. The parties waive all further findings of fact.

7
8 **CONCLUSIONS OF LAW**

9 31. The Board is the duly constituted authority for the regulation and control of the practice
10 of pharmacy in the State of Arizona, under A.R.S. § 32-1901, *et seq.*

11 32. The conduct and circumstances described in paragraphs 16 through 27 constitutes a
12 violation(s) of A.R.S. § 32-1968 (A) to wit:

13 **A.R.S. § 32-1968 (A)** : A prescription-only drug shall be dispensed only under one of the
14 following conditions:

- 15 1. By a medical practitioner in conformance with A.R.S. § 32-1921.
16 2. On a written prescription order.
17 3. On an oral prescription order which is reduced promptly to writing and filed by the pharmacist.
18 4. By renewing any written or oral prescription order if a renewal is authorized by the prescriber
either in the original prescription order or by an oral order that is reduced promptly to writing and
filed by the pharmacist.

19 33. The conduct and circumstances described above regarding Respondent constitutes unprofessional
20 conduct under A.R.S. § 32-1927(A)(10), A.R.S. § 32-1927(B)(2), and A.R.S. § 32-1927(B)(3)(d)(e).

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

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

25 **A.R.S. §32-1927(B)(2) and (B) (3)(d)(e)** The license of any pharmacist or pharmacy intern may
26 be revoked or suspended or the pharmacist or pharmacy intern may be placed on probation or
censured and a civil penalty of not more than one thousand dollars (\$1000.00) for each offense
may be imposed by the board if the licensee:

1 solely to whether this Board Order has been violated.

2 40. Respondent shall appear before the Board at a regularly scheduled Board meeting on
3 or after January 14, 2005 to request that the probation imposed by this order be terminated.

4
5 DATED AND EFFECTIVE this 20th day of January, 2003.

6
7 ARIZONA STATE BOARD OF PHARMACY

8
9 SEAL

10 By



11 Hal Wand, Executive Director
Arizona State Board of Pharmacy

12 Arizona State Board of Pharmacy
13 4425 W. Olive Avenue, Suite 140
Glendale, Arizona 85302

14 COPY of the foregoing mailed by
15 US Certified Mail #
this 21st day of January, 2003, to:

16 Brent L. Randle
17 5782 E. Seneca
Tucson arizona 85712

18 Copy of the foregoing mailed
19 this 21st day of January, 2003, to:

20 *[Name of Attorney Respondent]*
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX

21 Roberto Pulver
22 Assistant Attorney General
23 1275 W. Washington, CIV/LES
Phoenix, Arizona 85007
24 Attorney for the State
25
26



ARIZONA STATE BOARD OF PHARMACY

PO Box 6389, GLENDALE, ARIZONA 85312-6389
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 623-463-ASBP (2727) FAX 623-934-0583
 www.pharmacy.state.az.us

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <i>x Brent Randle</i></p> <p>B. Received by (Printed Name) <i>Brent Randle</i> Date of Delivery <i>1/21/04</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>
<p>1. Article Addressed to:</p> <p>Brent L Randle 5782 E Seneca Tucson AZ 85712</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7000 1670 0006 4396 2894</p>

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

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OFFICIAL USE

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Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees		

Brent L Randle
5782 E Seneca
Tucson AZ 85712

See reverse for instructions

4692 2896 9664 9000 0000 0297 0002