

1 2004-03-H

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

3 In the Matter of:

4 Anibal Rolon )  
5 Holder of License No. 13608 )  
6 For the Practice of Pharmacy )  
7 In the State of Arizona, )  
Respondent )

Case Number 2004-03-PHR

**CONSENT AGREEMENT AND ORDER  
FOR PROBATION**

8 TO: Anibal Rolon  
9 13626 W. Windsor Blvd.  
Litchfield Park, AZ 85340

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), Anibal Rolon, holder of license number 13608 to practice  
14 pharmacy in the State of Arizona (“Respondent”), and the Board enter into the following Recitals, Finding  
15 of Fact, Conclusions of Law and Order (“Consent Agreement”) as the final disposition of this matter.

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

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

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

26 3. Respondent understands that this Consent Agreement or any part of the agreement may

1 be considered in any future disciplinary action against him.

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

8 5. Respondent understands that this Consent Agreement deals with Board Investigation Case  
9 No. 2004-03-PHR involving allegations of unprofessional conduct against Respondent. The investigation  
10 into these allegations against Respondent shall be concluded upon the Board's adoption of this Consent  
11 Agreement.

12 6. All admissions made by Respondent in this Consent Agreement are made solely for the final  
13 disposition of this matter, and any related administrative proceedings or civil litigation involving the Board  
14 and Respondent. Therefore, any admissions made by Respondent in this Consent Agreement are not  
15 intended for any other use, such as in the context of another regulatory agency proceedings, or civil or  
16 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 Executive Director. Any modification to this original  
21 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 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 defenses.



1 Asacol®, used to treat ulcerative colitis. OSCAL® is a calcium supplement sold over the counter without  
2 a prescription.

3 16. Respondent's failure to interpret the prescription correctly as Asacol® caused patient E.S.  
4 to receive a non-prescription dietary supplement for calcium supplementation instead of treatment for  
5 ulcerative colitis as intended by the prescriber.

6 17. Respondent's advice about the non-prescription dietary supplement OSCAL instead of  
7 the prescription drug Asacol® prescribed caused the patient to delay treatment for a significant period of  
8 time which had the potential to cause harm to the patient.

9 18. The parties waive all further findings of fact.

### 10 CONCLUSIONS OF LAW

11  
12 19. The Board is the duly constituted authority for the regulation and control of the practice  
13 of pharmacy in the State of Arizona, under A.R.S. § 32-1901, *et seq.*

14 20. The conduct and circumstances described above regarding Respondent constitute  
15 constitute unprofessional conduct under A.R.S. § 32-1927(A)(10) and A.R.S. § 32-1927(B)(1)&(2):

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

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

21 **A.R.S. §32-1927(B)(1)&(2)** The license of any pharmacist or intern may be revoked or suspended  
22 or the pharmacist, pharmacy intern, or graduate intern may be placed on probation or censured  
23 and a civil penalty of not more than one thousand dollars for each offense may be imposed by the  
24 board if the licensee:

25 1. Is found by the Board to be guilty of dispensing a different drug or brand of drug in place  
26 of the drug or brand of drug ordered or prescribed without the express permission in each  
27 case of the orderer, or in the case of a prescription order, the medical practitioner. The  
28 conduct prohibited by this paragraph does not apply to substitutions authorized pursuant  
29 to section 32-1963.01.

30 2. Is found by the board, or is convicted in a federal or state court, of having violated federal  
31 or state laws or administrative rules pertaining to marijuana, prescription-only drugs,  
32 narcotics, dangerous drugs or controlled substances.

**ORDER**

Based upon the above Findings of Fact and Conclusions of Law and under the authority granted to the Board under A.R.S. § 32-1928, 41-1092.07(F)(5), and A.A.C. R4-23-104(G),

**IT IS HEREBY ORDERED** that:

21. License No. 13608, which was issued to Respondent for the practice of pharmacy in the State of Arizona, is hereby placed on **PROBATION** for a period of one (1) year. The **PROBATION** is subject to the following conditions:

22. Respondent shall pay all fees and complete all Continuing Education requirements to maintain Pharmacist License number 13608 throughout the term of the **PROBATION**.

23. Respondent shall not serve as a preceptor pharmacist nor as a pharmacist in charge throughout the term of the **PROBATION**.

24. Respondent shall obey all federal and state laws and rules governing the practice of pharmacy.

25. Respondent shall pay a civil penalty of one thousand dollars ( \$1,000.00) to the Board within sixty 60 days of the date of this Order. Payment shall be by a certified check or a cashier's check.

26. 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 action against the Respondent. The issue at such hearing will be limited solely to whether this Board Order has been violated.

27. Respondent shall appear before the Board at a regularly scheduled Board meeting on or after March 18, 2005 to request that the probation imposed by this Order be terminated.

...

1 DATED AND EFFECTIVE this 17<sup>th</sup> day of March, 2004.

3 ARIZONA STATE BOARD OF PHARMACY

4 SEAL

5 By



6 Hal Wand, Executive Director  
Arizona State Board of Pharmacy

7 ORIGINAL of the foregoing  
8 filed this 17<sup>th</sup> day of March,  
2004, with:

9 Arizona State Board of Pharmacy  
10 4425 W. Olive Avenue, Suite 140  
Glendale, Arizona 85302

11 COPY of the foregoing mailed by  
12 US Certified Mail this 19<sup>th</sup> day of  
March, 2004, to:

13 Anibal Rolon  
14 13626 W. Windsor Blvd.  
Litchfield Park, AZ 85340

15 Copy of the foregoing mailed  
16 this 19<sup>th</sup> day of March, 2004, to:

17 Roberto Pulver  
18 Assistant Attorney General  
1275 W. Washington, CIV/LES  
19 Phoenix, Arizona 85007  
Attorney for the State