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ARIZONA STATE BOARD OF PHARMACY

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of:

MICHELE NORMAN  
Holder of License No. 5124  
for Technician Trainee  
In the State of Arizona,

Respondent

Investigative Case No. 05-0025-PHR

CONSENT AGREEMENT AND ORDER  
FOR VOLUNTARY SURRENDER OF LICENSE

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), MICHELE NORMAN ("Respondent"), holder of Pharmacy Technician License No. 5124 to work as a technician trainee 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 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.

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

3           5.     Respondent understands this Consent Agreement deals with Board Investigation  
4 Case No. 05-0025-PHR involving allegations of unprofessional conduct against Respondent. The  
5 investigation into these allegations against Respondent shall be concluded upon the Board's  
6 adoption of this Consent Agreement.

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

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

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

25           9.     Respondent understands that the Consent Agreement shall not become effective unless  
26 and until adopted by the Board and signed by its Executive Director.

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

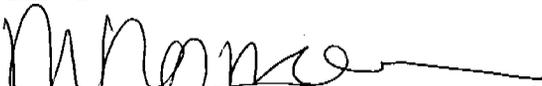
4 11. Respondent understands and agrees that if the Board does not adopt this Consent  
5 Agreement, she will not assert as a defense that the Board's consideration of this Consent  
6 Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

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

10 13. Respondent understands that any violation of this Consent Agreement constitutes  
11 unprofessional conduct under A.R.S. § 32-1901.01 (C) (16) ([v]iolated a formal order, terms  
12 of probation, a consent agreement or a stipulation issued or entered into by the board or its executive  
13 director pursuant to this chapter) and may result in disciplinary action under A.R.S. § 32-1927.01 (A)  
14 (1).

15 14. Respondent understands and agrees that she shall not reapply for a license before two (2)  
16 years after the effective date of this Order.

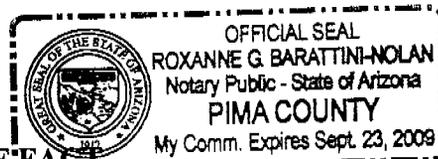
17 **REVIEWED and ACCEPTED BY :**

18 

19 MICHELE NORMAN

11/8/06  
DATE

20   
21 Notary Public



22 **FINDINGS OF FACT**

23  
24 By stipulation of the parties, this Consent Agreement is entered into for final disposition of the  
25 matters described herein. Respondent admits to the following Findings of Fact:  
26

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

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

5           17.    Respondent is the holder of Pharmacy Technician License No. 5124 which permits her  
6 to work as a pharmacy technician in the State of Arizona.

7           18.    On June 16, 2005, Respondent was interviewed by Walgreens Loss Prevention  
8 Supervisor Pat Marshall. During the interview, Respondent knowingly and voluntarily admitted to  
9 "OK" ing refills for prescriptions on file without authorization from the prescriber (s) at Walgreens  
10 Pharmacy #4266, while working as a pharmacy technician. ( **See Exhibit A – Voluntary Statement**  
11 **from Respondent to Pat Marshall** ).

12           19.    On June 24, 2005, Respondent agreed to repay Walgreens a total of \$1963.13 for the  
13 value of the unauthorized prescriptions admitted to in her voluntary statement, dated June 16, 2005.  
14 ( **See Exhibit B – Agreement to Repay Signed by Respondent** ).

15           20.    On August 31, 2005, Board Compliance Officer Ed Hunter and Drug Enforcement  
16 Administration ("DEA") Investigator Marcus Brown visited Dr. Patrick Marsh, D.O., and provided him  
17 with a copy of Respondent's profile and asked for a letter detailing which of the prescriptions listed  
18 were in fact authorized by him or his office personnel.

19           21.    On September 6, 2005, Dr. Marsh provided a letter to DEA Investigator Brown, the letter  
20 discloses that Dr. Marsh hand initialed the prescriptions on the profile which were not authorized by  
21 him as evidenced by his review of Respondent's chart. ( **See Exhibit C – Letter from Dr. Marsh** ).

1  
2 22. The unauthorized fillings by Respondent of hydrocodone 7.5 / 500mg. tablets, a Class III  
3 Controlled Substance, as defined in A.R.S. § 36-25-14, and Carisoprodol 350 mg. tablets, a Class IV  
4 Controlled Substance, as defined in A.R.S. § 36-25-15, are summarized in the tables in paragraphs 22  
5 and 23 on the following pages. Both of these Controlled Substances may only be dispensed pursuant to  
6 a valid prescription order from a licensed prescriber.  
7

8 23. Unauthorized dispensing of Hydrocodone 7.5 / 500mg. tablets:

9

<u>Date</u>	<u>Rx #</u>	<u>Quantity</u>
10 06/08/04	0462600	90
11 07/14/04	0468250	120
12 09/07/04	0477741	60
13 11/30/04	0491484	60
14 01/03/05	0493985	120
15 01/26/05	0501219	120
16 02/13/05	0501219	120
17 03/09/05	0508085	120
18 03/22/05	0508085	120
19 03/24/05	0508085	120
20 04/10/05	0514398	120
21 04/21/05	0516467	45
22 05/23/05	0516467	20
23 05/25/05	0516467	60
24 04/28/05	0517765	120
25 05/10/05	0517765	40
26 05/28/05	0522849	60
	TOTAL	1515

27 24. Unauthorized dispensing of Carisoprodol 350 mg. tablets:

28

<u>Date</u>	<u>Rx #</u>	<u>Quantity</u>
29 05/18/04	0459306	90
30 06/08/04	0462595	90
31 07/10/04	0467304	120

	<u>Date</u>	<u>Rx #</u>	<u>Quantity</u>
1	08/12/04	0467304	120
	08/29/04	0476310	60
2	09/21/04	0480181	120
	10/11/04	0480181	120
3	10/16/04	0485987	120
4			
	11/29/04	0491238	120
5	01/03/05	0496831	60
	01/18/05	0498099	120
6	02/11/05	0504019	60
	02/26/05	0504019	60
7	03/16/05	0504019	60
	02/17/05	0504865	120
8	03/04/05	0504865	120
	03/21/05	0510643	120
9	03/28/05	0510643	60
10	04/05/05	0510643	120
	04/10/05	0514399	120
11	04/21/05	0516466	45
12	05/18/05	0516466	60
	05/28/05	0516466	60
13	04/28/05	0517764	120
	05/08/05	0517764	120
14	05/25/05	0522286	60
15			
16		TOTAL	2325

**CONCLUSIONS OF LAW**

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

26. The conduct and circumstances described in the above Findings of Fact constitute violations of A.R.S. § 32-1927.01 (A) (1) to wit:

**A.R.S. § 32-1927.01 (A)(1):** A pharmacy technician or pharmacy technician trainee is subject to disciplinary action by the board for any of the following:

The board determines that the licensee has committed an act of unprofessional conduct.

27. The conduct and circumstances described in the above Findings of Fact constitute

unprofessional conduct and are grounds for disciplinary action under A.R.S. §§ 32-1901.01 (C) (8) and

1 (C) (15) to wit:  
2

3 **A.R.S. § 32-1901.01 (C)(8):** In this chapter, unless the context otherwise requires, for the  
4 purposes of disciplining a pharmacy technician or pharmacy technician trainee,  
5 “unprofessional conduct” means the following, whether occurring in this state or  
elsewhere:

6 Violating a federal or state law or administrative rule relating to marijuana,  
7 prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor  
chemicals when determined by the board or by conviction in a federal or state court.

8 **A.R.S. 32-1901.01 (C)(15):** In this chapter, unless the context otherwise requires, for the  
9 purposes of disciplining a pharmacy technician or pharmacy technician trainee,  
10 “unprofessional conduct” means the following, whether occurring in this state or  
elsewhere:

11 Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the  
12 violation of, or conspiring to violate, this chapter.

13 28. The conduct and circumstances described in the above Findings of Fact constitute  
14 unprofessional conduct and are grounds for disciplinary action under A.R.S. § 32-1968(A) to wit:  
15

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

- 17
- 18 1. By a medical practitioner in conformance with section 32-1921.
  - 19 2. On a written prescription order bearing the prescribing medical practitioner’s manual  
20 signature.
  - 21 3. On an electronically transmitted prescription order containing the prescribing  
22 medical practitioner’s electronic or digital signature that is reduced promptly to  
23 writing and filed by the pharmacist.
  - 24 4. On a written prescription order generated from electronic media containing the  
25 prescribing medical practitioner’s electronic or manual signature. A prescription  
26 order that contains only an electronic signature must be applied to paper that uses  
security features that will ensure the prescription order is not subject to any form of  
copying or alteration.
  5. On an oral prescription order that is reduced promptly to writing and filed by the  
pharmacist.
  6. By refilling any written, electronically transmitted or oral prescription order if a refill  
is authorized by the prescriber either in the original prescription order, by an  
electronically transmitted refill order that is documented promptly and filed by the

pharmacist or by an oral refill that is documented promptly and filed by the pharmacist.

**ORDER**

Based upon the above Findings of Fact and Conclusions of Law, and under the authority granted to the Board, under A.R.S. §§ 32-1927.01, 41-1092.07 (F) (5), and A.A.C. R4-23-122 (C),

**IT IS HEREBY ORDERED** that:

29. Technician Trainee License No. 5124, which was issued to Respondent to allow her to work as a pharmacy technician trainee in the State of Arizona, shall be deemed **SURRENDERED**, upon adoption of this Consent Agreement by the Board and Respondent shall immediately return License No. 5124 to the Board.

DATED and EFFECTIVE this 25 day of January, 2007

ARIZONA STATE BOARD OF PHARMACY



Hal Wand, R.Ph.,  
Executive Director  
Arizona State Board of Pharmacy

ORIGINAL of the foregoing, fully executed, filed this 25 day of January, 2007

Arizona State Board of Pharmacy  
4425 W. Olive Avenue, #140  
Glendale, Arizona 85302

Fully Executed Copy of the foregoing sent mailed this 25 day of

January, 2007

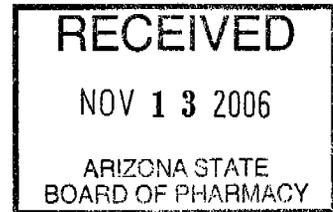
MICHELE NORMAN  
2820 N. Woodview Crest Drive  
Tucson, AZ 85742

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Copy or the foregoing mailed  
this 15 day of January, 2007

Dawn Walton Lee  
Assistant Attorney General  
1275 W. Washington, CIV/LES  
Phoenix, Arizona 85007

Christopher Munns  
Assistant Attorney General  
Solicitor General's Office  
1275 W. Washington  
Phoenix, Arizona 85007



By: Tiffany Patsch 01-25-2007

#477267

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	C. Date of Delivery <u>8/8</u>
1. Article Addressed to: <u>Michele Norman</u> <u>2820 W. Woodview Crest</u> <u>Jurson AZ 85742</u>	B. Received by (Printed Name) <u>Norman</u>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:
2. Article Number (Transfer from service label) <u>7005 1820 0002 8080 3091</u>	3. Service Type ARIZONA STATE BOARD OF PHARMACY <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.	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		RECEIVED AUG 10 2006



ARIZONA STATE BOARD OF PHARMACY

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PO Box 6389, GLENDALE, ARIZONA 85312-6389  
4425 WEST OLIVE AVENUE, SUITE 140, GLENDALE, ARIZONA 85302-3844  
623-463-ASBP (2727) FAX 623-934-0583  
www.pharmacy.state.az.us

July 24, 2006

Michelle Norman  
2820 N Woodview Crest Drive  
Tucson, Arizona 85742

Dear Ms. Norman,

This letter and accompanying documents contain a written stipulated agreement and Board Order. The Consent Agreement contains allegations which are violations of pharmacy statutes or rules.

The Board Order is consistent with Board action on similar matters in Arizona. If you wish to forego the expense and uncertainty of a formal hearing before the Board at a Board meeting, please sign the Consent to Entry Order document, have it notarized, and return it to me at this office. The full Board will decide to accept or reject the Order at the next regularly scheduled Board meeting.

I would appreciate hearing from you as soon as possible, whether or not you decide to accept the Consent Agreement, before the 25<sup>th</sup> day of August, 2006.

Please contact me at this office to verify understanding of the documents or to clarify any issues that concern you.

Sincerely,

A handwritten signature in black ink, appearing to read "Hal Wand", written in a cursive style.

Hal Wand  
Executive Director