

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

2 In the Matter of:

3 THOMAS BANNISTER, R.Ph.)
4 Holder of License No. 8040)
5 For the Practice of Pharmacy)
6 In the State of Arizona,)

**CONSENT AGREEMENT AND
ORDER FOR PROBATION**

NUMBER 06-0007-PHR

Respondent)
_____)

7 **CONSENT AGREEMENT**

8 **RECITALS**

9 In the interest of a prompt and judicious settlement of this case, consistent with the public
10 interest, statutory requirements and the responsibilities of the Arizona State Board of Pharmacy ("Board")
11 and under A.R.S. §§ 32-1901 *et. seq.* and 41-1092.07(F)(5), THOMAS BANNISTER ("Respondent"),
12 holder of Pharmacist License No. 8040 to practice pharmacy in the State of Arizona, and the Board
13 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent
14 Agreement") as a final disposition of this matter.

15 1. Respondent has read and understands this Consent Agreement and has had the
16 opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity
17 to discuss this Consent Agreement with an attorney.

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

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

24 4. Respondent understands that this Consent Agreement or any part of the agreement may
25 be considered in any future disciplinary action by the Board against him.
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1 5. Respondent understands this Consent Agreement deals with Board Complaint No. 3024
2 involving allegations of unprofessional conduct against Respondent. The investigation into these
3 allegations against Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

4 6. Respondent understands that this Consent Agreement does not constitute a dismissal or
5 resolution of any other matters which may come before the Board in the future, if any, and does not
6 constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
7 other future investigations, actions or proceedings. Respondent also understands that acceptance of this
8 Consent Agreement does not preclude any other agency, subdivision, or officer of this State from
9 instituting any other civil or criminal proceedings with respect to the conduct that is the subject of this
10 Consent Agreement.

11 7. Respondent understands that the Consent Agreement shall not become effective unless and
12 until adopted by the Board and signed by its Executive Director.

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

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

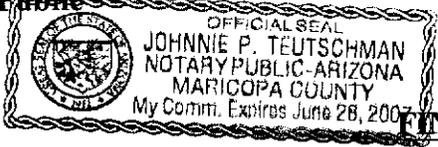
18 10. Respondent understands that any violation of this Consent Agreement constitutes
19 unprofessional conduct under A.R.S. § 32-1901.01 (B) (20) ([i]n this chapter, unless the context otherwise
20 requires, for the purposes of disciplining a pharmacist, pharmacy intern or graduate intern,
21 "unprofessional conduct" means the following, whether occurring in this state or elsewhere: violating a
22 formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board
23 or its executive director pursuant to this chapter), which shall result in disciplinary action under A.R.S. §
24 32-1927(A) (1).
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REVIEWED AND ACCEPTED BY:

Thomas J. Bannister
THOMAS BANNISTER, R.Ph.

3/15/06
DATE

Johnnie P. Teutschman
Notary Public



FINDINGS OF FACT

By stipulation of the parties, this Consent Agreement is entered into for final disposition of the matters described herein. Respondent neither admits nor denies the Findings of Fact, but acknowledges the Board has sufficient evidence to allege them.

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

12. The Board possesses jurisdiction over the subject matter and over Respondent as a licensee of the Board.

13. Respondent is the holder of a Pharmacy License No. 8040 which permits him to engage in the practice of pharmacy in the State of Arizona.

14. Respondent is employed as a staff pharmacist at Osco Drug #9264, located at 240 W. Continental Road, in Green Valley, Arizona.

15. From approximately September 24, 2004, to September 2005, patient W.S. filled his prescriptions for Darvocet N-100 at the pharmacy where Respondent is employed. Early in 2005, W.S. began requesting refills as soon as his insurance would authorize refills. The physician was contacted and approved all refill requests. Oral counseling and written information was provided to W.S. for each new prescription and W.S. stated that he was taking no more than 6 tablets per day. W.S.'s insurance company authorized and paid for each prescription. W.S. may have received in excess of 4000 mg of acetaminophen per day in April 2005, and may have reached up to 15,000 mg of acetaminophen per day in September 2005, a violation of A.A.C. § R4-23-402(A)(5)(c).

CONCLUSIONS OF LAW

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

3 17. The conduct and circumstance described in the above Findings of Fact constitute
4 unprofessional conduct and are grounds for disciplinary action under A.R.S. § 32-1927(A)(1)
5 to wit:

6 **A.R.S. § 32-1927 (A)(1):** A pharmacist, pharmacy intern or graduate intern is subject to
7 disciplinary action by the board for any of the following:

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

9 18. The conduct and circumstances described in the above Findings of Fact constitute
10 unprofessional conduct in violation of **A.A.C. § R4-23-402(A)(5)(c)** to-wit:

11 **A.A.C. § R4-23-402(A)(5)(c).** A pharmacist or graduate intern or pharmacy intern under the
12 supervision of a pharmacist shall perform the following professional practices in dispensing a
13 prescription medication from a prescription order:

14 Verify the legality and pharmaceutical feasibility of dispensing drugs based upon a patient's use
15 of unusual quantities of dangerous drugs or narcotics.

ORDER

16 Based upon the above Findings of Fact and Conclusions of Law, and under the authority
17 granted to the Board, under A.R.S. § 32-1928, 41-1092.07 (F)(5), and A.A.C. R4-23-122(C),

18 **IT IS HEREBY ORDERED** that:

19 (a) Pharmacy License No. 8040, which was issued to Respondent for the practice of pharmacy in
20 the State of Arizona, is hereby placed on **PROBATION** for a period of ninety (90) days, from the
21 effective date of this Order.

22 (b) The probation shall end automatically after the ninety (90) day period and shall not require an
23 additional Board appearance, provided that Respondent abides by all conditions of probation.

24 The **PROBATION** is subject to the following conditions:
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1 19. Respondent shall not serve as a pharmacist-in-charge throughout the term of his probation.

2 20. Respondent is required to advise the Board immediately of any change in pharmacy
3 employment status throughout the term of his probation.

4 21. Respondent shall furnish the Board with a list of all jurisdictions in which he maintains or
5 has maintained licensure in the profession of pharmacy along with the registration number of said
6 licenses.

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8 22. Respondent shall complete the Pharmacist Self Assessment Mechanism during the term of
9 his probation. Respondent shall submit a certificate of completion to the Board during the term of his
10 probation.

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12 23. Respondent shall obey all federal and state laws and rules governing the practice of
13 pharmacy.

14 24. Respondent shall appear in person before the Board to respond to questions or concerns
15 regarding his compliance with this Order when requested by the Board.

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

20 **DATED and EFFECTIVE this 15th day of March, 2006**

21 **ARIZONA STATE BOARD OF PHARMACY**

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23 Hal Wand, R.Ph.
24 Executive Director
25 Arizona State Board of Pharmacy
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ORIGINAL of the foregoing, fully executed,
filed this 22nd day of March 2006, with:

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

Copy of the foregoing sent
via Certified US mail this 22nd day of
March, 2006 to:

Thomas Bannister, R.Ph.
251 Placita Sin Fin
Green Valley, AZ 85614

and

Roger N. Morris, Esq.
Quarles & Brady Streich Lang
Two North Central Avenue
Phoenix, AZ 85004
Attorney for Respondent

Copy of the foregoing mailed
this 22nd day of March, 2006 to:

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

By: _____