

1 TERRY GODDARD
Attorney General
2 (Firm State Bar No. 14000)

3 SETH T. HARGRAVES
Assistant Attorney General
4 State Bar No. 020176
1275 W. Washington, CIV/LES
5 Phoenix, Arizona 85007-2997
Tel: (602) 542-7033
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

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

9
10 In the Matter of

11 **RANDY SIMMONS,**

12 Holder of License No. 598
For practice as a Pharmacy Technician
13 In the State of Arizona

Board Case No. 07-0013-PHR

CONSENT AGREEMENT

14
15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and the responsibilities of the Arizona State Board
18 of Pharmacy ("Board") and under A.R.S. §§ 32-1901, *et. seq.* and 41-1092.07(F)(5),
19 Randy Simmons ("Respondent"), holder of Pharmacist Technician License Number 598
20 in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact,
21 Conclusions of Law and Order ("Consent Agreement") as a final disposition of this
22 matter.

23 1. Respondent has read and understands this Consent Agreement and has had
24 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
25 opportunity to discuss this Consent Agreement with an attorney.
26

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

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

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

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3140 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. All admissions made by the Respondent in this Consent Agreement are
24 made solely for the final disposition of this matter, and any related administrative
25 proceedings or civil litigation involving the Board and Respondent. Therefore, any
26

1 admissions made by Respondent in this Consent Agreement are not intended for any
2 other use, such as in the context of another regulatory agency's proceedings, or civil or
3 criminal proceedings, whether in the State of Arizona or in any other state or federal
4 court.

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

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

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

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

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

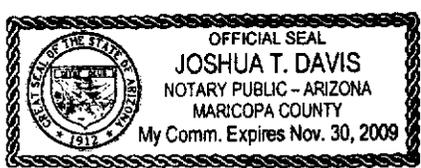
23 14. Respondent understands that any violation of this Consent Agreement
24 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
25 1901.01(B)(20), -1927(A)(1).

1 ACCEPTED AND AGREED BY RESPONDENT

2
3 Randy Simmons
4 Randy Simmons

Dated: 2-23-07

5 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
6 this 23rd day of February, 2007, by Randy Simmons.



7 Joshua T. Davis
8 NOTARY PUBLIC

9 My Commission expires: Nov 30, 2009

10
11 **FINDINGS OF FACT**

12 1. The Arizona State Board of Pharmacy ("Board") is the duly constituted
13 authority for licensing and regulating the practice of pharmacy in the State of Arizona.

14 2. Randy Simmons ("Respondent") holds Arizona Pharmacy Technician
15 License Number 598.

16 3. During all times relevant to this Complaint, Respondent was employed as a
17 pharmacy technician at AJ's United Drug #63 ("Pharmacy") in Scottsdale, Arizona.

18 4. On or about April 17, 2006, a prescription for patient B.K. was dropped off
19 at the Pharmacy. The prescription was for 90 tablets of Vesicare 5mg, with directions to
20 take 5 milligrams orally once a day.

21 5. Respondent typed the prescription with directions to take 5 tablets once
22 daily. During the process, a Drug Utilization Review ("DUR") popped up on the
23 computer screen warning of a potential overdose. Respondent performed an override of
24 the DUR and continued to prepare the prescription with incorrect directions.

25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1. Respondent shall take eight (8) hours of patient safety/error prevention continuing education.
2. Respondent shall pay a fine of \$250.00.
3. Respondent shall advise the Board immediately of any change in pharmacy employment status throughout the term of her probation.
4. Respondent shall furnish the Board with a list of all jurisdictions in which she maintains or has maintained licensure as a pharmacy technician.
5. Respondent shall obey all federal and state laws and rules governing her practice as a pharmacy technician.
6. If Respondent violates this order in any way or fails to fulfill the requirements of this order within one year of the effective date of this Order, the Board, after giving the Respondent notice and the opportunity to be heard, may revoke, suspend or take other disciplinary actions against the Respondent's license. The issue at such a hearing will be limited solely to whether this order has been violated.
7. Respondent shall appear before the Board at a regularly scheduled meeting after the terms of probation are met to request that the probation imposed by this Order be terminated. Respondent's failure to petition the Board to terminate the probation shall extend the probation period.

DATED this 2ND day of APRIL, 2007.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By: 
HAL WAND, R.Ph.
Executive Director

1 ORIGINAL OF THE FORGOING FILED
2 this 2 day of April, 2007, with:

3 Arizona State Board of Pharmacy
4 4425 W. Olive Avenue, Suite 140
5 Glendale, Arizona 85302

6 EXECUTED COPY OF THE FOREGOING MAILED
7 BY CERTIFIED MAIL
8 this 2 day of April, 2007, to:

9 Randy Simmons
10 10220 E. Meadow Hill
11 Scottsdale, Arizona 85260

12 EXECUTED COPY OF THE FOREGOING MAILED
13 this 2 day of April, 2007, to:

14 Seth T. Hargraves
15 Assistant Attorney General
16 1275 W. Washington Street, CIV/LES
17 Phoenix, Arizona 85007
18 Attorneys for the State of Arizona

19 *Suzanne Palsch*
20 7006 0100 0002 8652 2069

21 491420/Les#07-0071

22
23
24
25
26