

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

3 ELIZABETH A. CAMPBELL
Assistant Attorney General
4 State Bar No. 018311
1275 W. Washington, CIV/LES
5 Phoenix, Arizona 85007-2997
Tel: (602) 542-7979
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

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

10 In the Matter of

11 **PAYAL MAKADIA,**

12 Holder of License No. 15722
As a Pharmacist
13 In the State of Arizona

Board Case No. 08-0022-PHR

**CONSENT AGREEMENT
FOR CIVIL PENALTY AND
PROBATION**

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”) under A.R.S. § 32-1901, *et. seq.*, Payal Makadia (“Respondent”),
19 holder of Pharmacist License Number 15722 in the State of Arizona, and the Board enter
20 into the following Recitals, Findings of Fact, Conclusions of Law and Order (“Consent
21 Agreement”) as a final disposition of this matter.

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

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1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning the above-captioned matter, at which hearing he 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 him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3425 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
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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, he may not
7 revoke his 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, he 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).

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1 ACCEPTED AND AGREED BY RESPONDENT

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Payal Makadia

Dated: 2/27/08

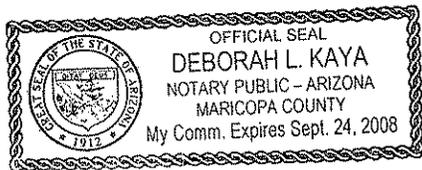
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Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
this 27 day of February, 2008, by Payal Makadia.

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NOTARY PUBLIC

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My Commission expires: 9-24-08

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FINDINGS OF FACT

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1. The Board is the duly constituted authority for licensing and regulating the practice of pharmacy in the State of Arizona.
2. Respondent is the holder of license number 15722 to practice as a pharmacist in the State of Arizona.
3. During all relevant times to these findings, Respondent worked as a pharmacist at Bashas United Drug Pharmacy #161 (the "Pharmacy") in Chandler, Arizona.
4. On May 2, 2007, a doctor's office called in a prescription order for Visicol. Respondent took the telephone call. Respondent wrote the prescription down as Vesicare, and the Respondent then dispensed Vesicare 5 mg to the complainant.
5. The prescription was picked upon May 5, 2007. The directions on the prescription bottle were to "take 4 tablets every 15 minutes starting at 1 p.m. until 20 tablets are taken, 4 tablets at 5 p.m., then 4 tablets [at] 5:15 p.m."

1 ORDER

2 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY
3 ORDERED THAT:

4 1. Respondent shall pay a civil penalty of \$1,000.00 within ninety (90) days of
5 the effective date of this Order. Failure to pay the civil penalty within the specified
6 period constitutes noncompliance with this Consent Agreement.

7 2. Beginning on the effective date of this Consent Agreement, Respondent's
8 Pharmacist License No. 15722 is placed on probation for a period of six (6) months.
9 During the term of probation, Respondent shall successfully complete and provide proof
10 of successful completion to the Board of ten (10) contact hours (1.0 C.E.U.) of American
11 Council on Pharmaceutical Education (ACPE). The courses shall be pre-approved by
12 Board staff, shall be limited to topics dealing with prescription error prevention and/or
13 counseling, and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C.
14 R4-23-204.

15 3. In the event Respondent fails to fulfill the requirements of paragraph 2
16 within the probationary period the Board, at its sole discretion, may either: (a) extend
17 Respondent's probation for a period determined by the Board; or (b) institute proceedings
18 for noncompliance with this Consent Agreement, which may result in suspension,
19 revocation, or other disciplinary action.

20 DATED this 20th day of MARCH, 2008.

21 ARIZONA STATE BOARD OF PHARMACY

22 (Seal)

23
24 By: 

25 HAL WAND, R.Ph.
26 Executive Director

1 ORIGINAL OF THE FORGOING FILED
this 20 day of March, 2008, with:

2
3 Arizona State Board of Pharmacy
1700 West Washington, Suite 250
Phoenix, Arizona 85007

4 EXECUTED COPY OF THE FOREGOING MAILED
5 BY CERTIFIED MAIL
this 20 day of March, 2008, to:

6
7 Payal Makadia
125 S. Alma School Road
Chandler, Arizona 85224
8 Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED
10 this 20 day of March, 2008, to:

11 Elizabeth A. Campbell
Assistant Attorney General
1275 W. Washington Street, CIV/LES
12 Phoenix, Arizona 85007
Attorneys for the State of Arizona

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#147191

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