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JAN 31 2007

ARIZONA STATE
BOARD OF PHARMACY

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of:

KERRY KARN,

Holder of License No. 10907
For the Practice of Pharmacy
In the State of Arizona.

Respondent.

Investigation Case Number 04-0024-PHR

**AMENDED CONSENT
AGREEMENT AND ORDER FOR
SUSPENSION AND PROBATION**

FILED
COPY TO
MINDERS
[Signature]

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), Kerry Karn ("Respondent"), holder of pharmacist license number 10907 to practice pharmacy 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 he has a right to a public administrative hearing concerning the above-captioned matter, at which hearing he could present evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondent freely 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. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

1 3. Respondent understands that this Consent Agreement or any part of the
2 agreement may be considered in any future disciplinary action against him.

3 4. Respondent understands this Consent Agreement deals with Board
4 Investigation Case No. 04-0024-PHR involving allegations of unprofessional conduct
5 against Respondent. The investigation into these allegations against Respondent shall be
6 concluded upon the Board's adoption of this Consent Agreement.

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

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

21 7. Respondent acknowledges and agrees that upon signing this consent
22 Agreement and returning this document to the Board's Executive Director, Respondent
23 may not revoke his acceptance of the Consent Agreement or make any modifications to
24 the documents regardless of whether the Consent Agreement has been signed by the



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1 Executive Director. Any modification to this original document is ineffective and void
2 unless mutually agreed by the parties in writing.

3 8. Respondent understands that the Consent Agreement shall not become
4 effective unless and until adopted by the Board and signed by its Executive Director.

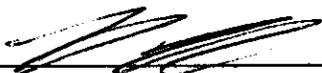
5 9. If a court of competent jurisdiction rules that any part of this Consent
6 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
7 shall remain in full force and effect.

8 10. Respondent understands and agrees that if the Board does not adopt this
9 Consent Agreement, he will not assert as a defense that the Board's consideration of this
10 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

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

15 12. Respondent understands that any violation of this Consent Agreement
16 constitutes unprofessional conduct under A.R.S. § 32-1927(A)(17) (the licensee violated
17 a formal order, terms of probation, a consent agreement or a stipulation issued or entered
18 into by the board or its Executive Director pursuant to this chapter) and may result in
19 disciplinary action under A.R.S. § 32-1927.

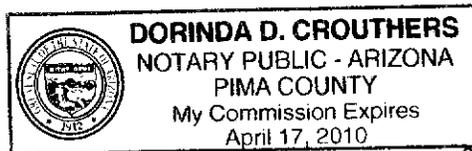
20 **REVIEWED AND ACCEPTED BY:**

21
22 
23 KERRY KARN

1-29-07
DATE

24 
25 Dorinda D. Crouters
26 Notary Public

STATE OF ARIZONA,
COUNTY OF Pima
This foregoing instrument was acknowledged
before me this 29 day of January 20 07
By Kerry Karn
Notary Public Dorinda D. Crouters
My Commission Expires: 04.17.2010



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FINDINGS OF FACT

1
2 By stipulation of the parties, this Consent Agreement is entered into for final
3 disposition of the matters described herein. Respondent admits to the following Findings
4 of Fact:

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

7 14. The Board possess jurisdiction over the subject matter and over Respondent
8 as a licensee of the Board under A.R.S. §32-1901, *et seq.*

9 15. Respondent is the holder of a license 10907 which permits him to engage in
10 the practice of pharmacy in the State of Arizona.

11 16. May 1, 2004 and May 20, 2004, Respondent was employed as a pharmacist
12 at OSCO Drug Pharmacy #969, 6363 E. 22nd Street, Tucson, Arizona.

13 17. On June 29, 2004, Richard Mazzoni, RPh, OSCO/Albertson's Director of
14 Pharmacy Operations sent a letter addressed to the Board (**see Exhibit A**) which listed
15 the following admissions by Kerry Karn:

- 16 a. Diversion of various hydrocodone products from his employer for the purpose
17 of self-administration.
- 18 b. Theft of various hydrocodone products from patient's filled prescriptions
19 (short count).
- 20 c. Practicing pharmacy while impaired.

21 18. On July 13, 2004, a Board Compliance Officer obtained a copy of a letter
22 (**see Exhibit B**) sent by Dan Johnson, pharmacist-in-charge at OSCO pharmacy #959, to
23 Stacy Ramirez, District Pharmacy Manager (DPM) for the pharmacy. The letter
24 contained the following information:

- 25 (a) A summary of a telephone call from Lisa Karn, wife of Kerry Karn. The
26 summary included a statement made by Lisa Karn to Dan Johnson, that "she as a
pharmacist herself had a legal obligation to protect the public due to his {Mr.

1 Karn's} impairment". Ms. Karn further stated that Respondent had been
2 consuming generic Vicodin and to a lesser extent generic Valium. Ms. Karn also
3 stated that Respondent would short patient's their prescribed quantity of
4 medication, so that counts should still be accurate at the pharmacy. Additionally,
5 Ms. Karn also stated that Respondent had taken eight (8) tablets from a
6 prescription of Oxycontin 10 mg. #270 prescription.

7 (b) Mr. Johnson also reported to Ms. Ramirez that Respondent had confirmed
8 during repeated telephone calls that he had been taking generic Vicodin as well as
9 generic Norco (hydrocodone 10mg./acetaminophen 325mg.) Respondent also
10 admitted that it had been going on for a considerable amount of time and dated
11 back to when he was employed at OSCO Pharmacy #961 as well. Respondent
12 admitted to Mr. Johnson that he had taken some generic Valium as well.

13 (c) Respondent admitted that he had taken a leave of absence from OSCO
14 Pharmacy #961 to try to break his habit and that he had been advised by a
15 physician to obtain treatment in a 30-day inpatient program.

16 19. Respondent entered into the Pharmacists Assisting Pharmacists of Arizona
17 (PAPA), a substance abuse treatment program that is recommended by the Board and
18 authorized under A.R.S. § 32-1932.01.

19 CONCLUSIONS OF LAW

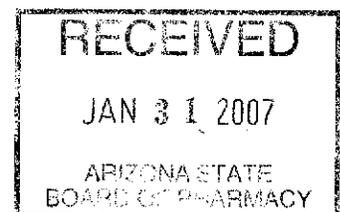
20 20. The Board is the duly constituted authority for the regulation and control of
21 the practice of pharmacy in the State of Arizona, under A.R.S. § 32-1901, *et seq.*

22 21. The conduct and circumstances described in the findings of Fact above
23 constitute grounds for disciplinary action under A.R.S. § 32-1927(A)(4), (5) & (10) and
24 A.R.S. § 32-1927(B)(2) to wit:

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

(4) The licensee reports for duty under the influence of alcohol or other drugs.

(5) The licensee is addicted to the use of alcohol or other drugs to such a degree
as to render the licensee unfit in the opinion of the board to practice the profession
of pharmacy.



1 (10) The licensee is found by the board to be guilty of violating any Arizona or
2 federal law, rule, or regulation relating to the manufacture and distribution of
3 drugs, devices, or the practice of pharmacy.

4 **A.R.S. § 32-1927(B)** The license of any pharmacist or pharmacy intern may be
5 revoked or suspended or the pharmacist or pharmacy intern may be placed on
6 probation or censured and a civil penalty of not more than one thousand dollars
7 [(\$1000.00)] for each offense may be imposed by the board if the licensee:

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

11 **ORDER**

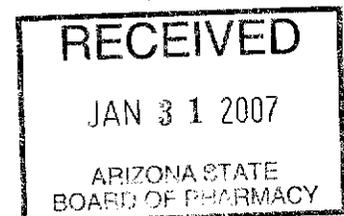
12 Based upon the above Findings of Fact and Conclusions of Law and under the
13 authority granted to the board under A.R.S. §§ 32-1928, 41-1092.07(F)(5), and A.A.C.
14 R4-23-122(G).

15 **IT IS HEREBY ORDERED** that:

16 22. Effective May 20, 2004, the last day Respondent worked in a pharmacy,
17 License No. 10907, which was issued to Respondent for the practice of pharmacy in the
18 State of Arizona, is hereby placed on **SUSPENSION**, until September 1, 2004, and
19 thereafter a **PROBATION** is imposed for a period of five (5) years upon adoption of this
20 Consent Agreement by the Board. The **SUSPENSION** and **PROBATION** are subject to
21 the following conditions:

22 23. Respondent shall have initiated a five (5) year contract with the
23 Pharmacists Assisting Pharmacists (PAPA) and shall abide by every requirement of that
24 contract.

25 24. Respondent shall pay all fees and complete all Continuing Education
26 requirements throughout the term of his probation to maintain Pharmacist License
Number 10907.



1 25. Respondent shall not serve as a preceptor pharmacist or pharmacist-in-
2 charge throughout the term of his suspension and probation.

3 26. Respondent shall obey all federal and state laws and rules governing the
4 practice of pharmacy.

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

8 28. Respondent is required to advise the Board immediately of any change in
9 pharmacy employment status throughout the term of his probation.

10 29. Respondent is required to furnish all pharmacy employers with a copy of
11 this Board Order throughout the term of his probation.

12 30. Respondent shall perform four hundred (400) hours of community service
13 approved by the Board before the term of probation is completed.

14 31. *Respondent shall submit to random biological fluid screenings for the*
15 *presence of drugs or alcohol in his body as determined by PAPA during the Probation.*

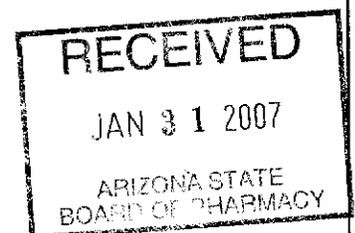
16 32. If Respondent violates this Order in any way or fails to fulfill the
17 requirements of this Order, the Board, after giving the Respondent notice and the
18 opportunity to be heard, may revoke, suspend or take other disciplinary actions against
19 the Respondent. The issue of such hearing will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

21 33. Respondent shall appear before the Board at a regularly scheduled Board
22 meeting on or after August 12, 2009 to request that the probation imposed by this Order
23 be terminated.

24 ...

25

26



1 DATED and EFFECTIVE this _____ day of December, 2006.

2 ARIZONA STATE BOARD OF PHARMACY

3
4 Hal Wand, RPh
5 Executive Director
6 Arizona State Board of Pharmacy
7 Attorney General

7 ORIGINAL of the foregoing, fully
8 executed, filed this _____ day of
9 _____, 2006, with:

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

11 Fully Executed Copy of the foregoing
12 sent via Certified U.S. mail this
13 _____ of _____, 2007, to:

13 Kerry Karn
14 11355 E. Old Spanish Trail
15 Tucson, AZ 85710

15 Copy of the foregoing mailed this
16 _____ day of _____, 2006, to

16 Dawn Walton Lee
17 Assistant Attorney General
18 1275 W. Washington, CIV/LES
19 Phoenix, AZ 85007
20 Attorney for the State

20 _____

21 #486631

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23
24
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 KERRY KARN
 10593 SILVERBUSH
 VAL AZ 85641

2. Article Number
 (Transfer from service label)
 PS Form 3811, February 2004

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