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7 Attorneys for the Arizona State Board of Pharmacy

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

9
10 In the Matter of

11 **ERIC KESTERSON**

12 Holder of License No. 1752
As a Pharmacy Technician
13 In the State of Arizona

Board Case No. 08-0017-PHR

**CONSENT AGREEMENT
FOR SURRENDER**

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.*, Eric Kesterson
19 ("Respondent"), holder of Pharmacy Technician License Number 1752 in the State of
20 Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions
21 of Law and Order ("Consent 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. 3441 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(C)(16), -1927.01(A)(1).

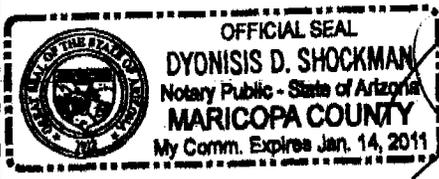
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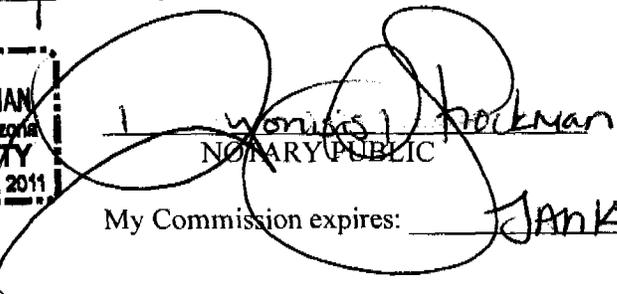
1 ACCEPTED AND AGREED BY RESPONDENT

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3 
Eric Kesterson

Dated: 2-6-08

4 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
5 this 6th day of February, 2008, by Eric Kesterson.



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7 
NOTARY PUBLIC
8 My Commission expires: Jan 14, 2011

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10 **FINDINGS OF FACT**

- 11 1. The Arizona State Board of Pharmacy ("Board") is the duly constituted
- 12 authority for licensing and regulating the practice of pharmacy in the State of Arizona.
- 13 2. Eric Kesterson ("Respondent") holds Arizona Pharmacy Technician
- 14 License Number 1752.
- 15 3. On May 10, 2007, Respondent entered into a Consent Agreement for
- 16 Stayed Revocation and Probation ("2007 Consent Agreement") with the Board.
- 17 4. In the 2007 Consent Agreement, Respondent agreed, among other things, to
- 18 participate in the Treatment Assessment Center, Inc.'s ("TASC") Substance Abuse
- 19 Program and to submit to random urinalysis.
- 20 5. Respondent failed to participated in TASC and to submit to random
- 21 urinalysis as required by the terms of the 2007 Consent Agreement.
- 22 6. Respondent has expressed his desire to surrender his license.

23 **CONCLUSIONS OF LAW**

- 24 1. The Board possesses jurisdiction over the subject matter and over
- 25 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

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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 Eric Kesterson
7 1515 South Extension Road #2037
Mesa, AZ 85210
8 Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED
10 this 20 day of March, 2007, to:

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

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15 #114425

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