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7
8 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

9 In the Matter of

10 **BRIAN SCHRECKENGOST**

11 Holder of License No. T007195
12 As a Pharmacy Technician
13 In the State of Arizona

Board Case No. 09-0006-PHR

**COMPLAINT AND NOTICE OF
HEARING**

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15 **I. NOTICE OF PUBLIC HEARING.**

16 YOU ARE HEREBY NOTIFIED, the Arizona State Board of Pharmacy ("Board")
17 will conduct an administrative hearing at the following place and time, to determine
18 whether grounds exist to revoke or take other action regarding Pharmacy Technician
19 License No. T007195 held by Brian Schreckengost ("Respondent"):

20 **Arizona State Board of Pharmacy**
1700 W. Washington Street, 3rd Floor Board Room
21 **Phoenix, Arizona 85007**
On January 29, 2009, at 9:00 a.m.

22 and continuing on successive days until concluding, concerning the matters set forth in
23 this Complaint and Notice of Hearing, at which time and place, evidence, testimony and
24 argument in support of the charges set forth in the Complaint will be presented. If you
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1 desire to make a defense to the charges at the hearing, you may appear at the hearing in
2 person and may be represented by legal counsel and may at that time cross-examine the
3 witnesses against you and present testimony of witnesses, evidence and argument in your
4 own behalf.

5 **Whether or not you intend to appear at the hearing, pursuant to A.R.S. § 32-**
6 **1927.01(O), YOU ARE REQUIRED to prepare and file a written Answer to the**
7 **allegations alleged in the above Complaint with the Board within 30 days after**
8 **service of this Complaint and Notice of Hearing.** Your Answer should contain specific
9 admissions or denials of the allegations of the Complaint, and may contain concise
10 factual allegations which you contend constitute a ground or grounds for defense. Your
11 Answer must be in writing, verified under oath, and filed with the Board within thirty
12 (30) days after service of the Complaint. *Id.* **THE BOARD SHALL CONSIDER**
13 **YOUR FAILURE TO RESPOND WITHIN THIS TIME AS YOUR ADMISSION**
14 **BY DEFAULT TO THE ALLEGATIONS STATED IN THE COMPLAINT.** *Id.*
15 The Board may then take any action allowed by § 32-1927.01 without conducting a
16 hearing. If you Answer and fail to appear for the hearing, the Board may proceed in your
17 absence. If you desire to waive a hearing and not contest the facts herein alleged, you
18 may file an Answer consisting of a declaration that the material allegations of the
19 Complaint are admitted.

20 After the hearing, if the Board determines that you have committed unprofessional
21 conduct or that you are professionally incompetent or physically or mentally
22 incapacitated to such a degree as to render you unfit to safely perform your employment
23 duties, the Board may revoke or suspend your license, place you on probation, issue you
24 a decree of censure or letter of reprimand, or impose upon you a civil penalty of not more
25 than \$1,000 for each violation. A.R.S. § 32-1927.01(A), (B). The Board may also charge
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1 you for the costs of the administrative hearing. A.R.S. § 32-1927.01(C).

2 In accordance with Title II of the Americans with Disabilities Act (ADA), the
3 Board does not discriminate on the basis of disability in admission to and participation in
4 hearings. Should you, or anyone you call as a witness need special accommodations,
5 please contact the Board office at (602) 771-2727 at least three working days before the
6 hearing.

7 **PARTIES AND JURISDICTION**

8 1. The Board is the duly constituted authority for licensing and regulating the
9 practice of pharmacy in the State of Arizona.

10 2. Respondent is the holder of license number T007195, which allows him to
11 practice as a pharmacy technician in the State of Arizona.

12 3. Under A.R.S. § 32-1901, *et seq.*, the Board possess jurisdiction over the
13 subject matter and over Respondent as a licensee of the Board.

14 **FACTUAL ALLEGATIONS**

15 1. During all times relevant to these Findings, Respondent worked as a
16 pharmacy technician at CVS Pharmacy numbers 9230, 1743, and 9306 in Sun City West
17 and Surprise, Arizona ("Pharmacy").

18 2. In an interview with loss prevention personnel in January 2008, Respondent
19 admitted that he had diverted the controlled substances hydrocodone/APAP 10/325 and
20 Lunesta (eszopiclone) 3mg for his personal use. Respondent admitted taking 104 bottles
21 of hydrocodone/APAP and 24 bottles of Lunesta. Respondent further admitted that he
22 was addicted to these drugs.

23 3. Eszopiclone is a Schedule IV controlled substance.

24 4. Hydrocodone/APAP is a Schedule III controlled substance. A.R.S. § 36-
25 2514(A)(5)(d).

1 6. Respondent's conduct, as described in the Findings of Fact, constitutes a
2 violation of A.R.S. § 36-2531(E) (A person may not knowingly or intentionally acquire
3 or obtain possession of a controlled substance by means of forgery, fraud, deception or
4 subterfuge). A person who violates A.R.S. § 36-2531(E) is guilty of a class 4 felony.

5 7. Respondent's conduct, as described in the Findings of Fact, constitutes a
6 violation of A.R.S. § 32-1968(A) ("A prescription-only drug shall be dispensed only
7 under one of the following conditions: (1) By a medical practitioner in conformance with
8 A.R.S. § 32-1921; (2) On a written prescription order bearing the prescribing medical
9 practitioner's manual signature; (3) On an electronically transmitted prescription order
10 containing the prescribing medical practitioner's electronic or digital signature that is
11 reduced promptly to writing and filed by the pharmacist; (4) On a written prescription
12 order generated from electronic media containing the prescribing medical practitioner's
13 electronic or manual signature. A prescription order that contains only an electronic
14 signature must be applied to paper that uses security features that will ensure the
15 prescription order is not subject to any form of copying or alteration; (5) On an oral
16 prescription order that is reduced promptly to writing and filed by the pharmacist; (6) By
17 refilling any written, electronically transmitted or oral prescription order if a refill is
18 authorized by the prescriber either in the original prescription order, by an electronically
19 transmitted refill order that is documented promptly and filed by the pharmacist or by an
20 oral refill order that is documented promptly and filed by the pharmacist.")

21 8. The conduct and circumstances described above constitute unprofessional
22 conduct pursuant to A.R.S. § 32-1901.01(C)(8) ("Violating a federal or state law or
23 administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous
24 drugs, controlled substances or precursor chemicals when determined by the board or by
25 conviction in a federal or state court.")

1 DATED this 1st day of December, 2008.

3 ARIZONA STATE BOARD OF PHARMACY

4
5 By: 
6 HAL WAND, R.Ph.
Executive Director

7 ORIGINAL OF THE FORGOING FILED
8 this 1 day of December, 2008, with:

9 Arizona State Board of Pharmacy
10 1700 West Washington Street, Suite 250
Phoenix, Arizona 85007

11 COPY OF THE FOREGOING MAILED
12 BY CERTIFIED & REGULAR FIRST-CLASS MAIL
13 this 1 day of December, 2008, to:

14 Brian Schreckengost
15 14463 N. 132nd Dr.
Surprise, Arizona 85379

16 COPY OF THE FOREGOING MAILED
17 this 1 day of December, 2008, to:

18 Christopher Munns
19 Assistant Attorney General
20 1275 W. Washington Street, CIV/SGO
Phoenix, Arizona 85007
21 Attorney for the Board

22 Elizabeth A. Campbell
23 Assistant Attorney General
24 1275 W. Washington Street, CIV/LES
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