

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 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

9  
10 In the Matter of

11 **PAUL DAHLK**

12 Holder of License No. S007308  
For the Practice of Pharmacy  
13 In the State of Arizona

Board Case No. 10-0026-PHR

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

14 In the interest of a prompt and judicious settlement of this case, consistent with the  
15 public interest, statutory requirements and the responsibilities of the Arizona State Board  
16 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Paul Dahlk ("Respondent"),  
17 holder of Pharmacist License Number S007308 in the State of Arizona, and the Board  
18 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order  
19 ("Consent Agreement") as a final disposition of this matter.

20 **RECITALS**

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

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

5 3. Respondent affirmatively agrees that this Consent Agreement shall be  
6 irrevocable.

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

9 5. Respondent understands this Consent Agreement deals with Board  
10 Complaint No. 3710 involving allegations of unprofessional conduct against Respondent.  
11 The investigation into these allegations against Respondent shall be concluded upon the  
12 Board's adoption of this Consent Agreement.

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

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

21 8. Respondent acknowledges and agrees that, upon signing this Consent  
22 Agreement and returning this document to the Board's Executive Director, he may not  
23 revoke his acceptance of the Consent Agreement or make any modifications to the  
24 document 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 9. This Consent Agreement is effective when signed by the Board's Executive  
4 Director.

5 10. 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 11. Respondent understands that this Consent Agreement is a public record that  
9 may be publicly disseminated as a formal action of the Board and may be reported as  
10 required by law to the National Practitioner Data Bank and the Healthcare Integrity and  
11 Protection Data Bank.

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

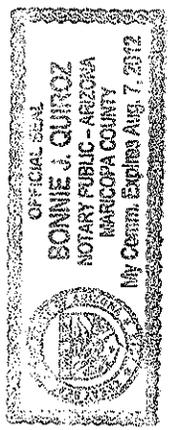
15 ACCEPTED AND AGREED BY RESPONDENT

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Paul Dahlk  
Paul Dahlk

Dated: 11/24/09

Subscribed and sworn to before me in the County of Maricopa, State of AZ  
this 24 day of Nov, 2009, by Paul Dahlk.



Bonnie J. Quiroz  
NOTARY PUBLIC

My Commission expires: 8-7-2012

FINDINGS OF FACT

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

4           2.     Respondent is the holder of license number S007308 to practice as a  
5 pharmacist in the State of Arizona.

6           3.     On July 27, 2005, Respondent signed a Consent Agreement and Order for  
7 Suspension and Probation in Case Number 05-0009-PHR (the "2005 Consent  
8 Agreement"). The 2005 Consent Agreement became effective on August 17, 2005.

9           4.     The 2005 Consent Agreement required, among other things, that  
10 Respondent sign a five-year contract with Pharmacists Assisting Pharmacists of Arizona  
11 ("PAPA") and abide by each and every requirement of that contract. 2005 Consent  
12 Agreement at 6, ¶35. The 2005 Consent Agreement further provided that violation of the  
13 PAPA contract was a violation of the 2005 Consent Agreement. *Id.*

14           5.     On May 25, 2005, Respondent signed a five-year PAPA contract. The  
15 PAPA contract required that that Respondent "completely abstain from ingesting alcohol  
16 or any mood-altering drugs except on prescription from my family physician after  
17 consultation with PAPA." PAPA contract at 2, ¶4.

18           7.     On June 15, 2009, Respondent tested positive for phentermine.

19           6.     In June 2009, Respondent was working as a pharmacist at Kmart  
20 pharmacies 3228 and 3108 (the "pharmacies"). On about June 26, 2009, Respondent  
21 admitted to Kmart personnel that he had taken phentermine and phendimetrazine from the  
22 pharmacies without a prescription and without paying for them.

23           7.     Phentermine is a Schedule IV controlled substance. A.R.S. § 36-  
24 2515(A)(1)(h).



1 reduced promptly to writing and filed by the pharmacist; (4) On a written prescription  
2 order generated from electronic media containing the prescribing medical practitioner's  
3 electronic or manual signature. A prescription order that contains only an electronic  
4 signature must be applied to paper that uses security features that will ensure the  
5 prescription order is not subject to any form of copying or alteration; (5) On an oral  
6 prescription order that is reduced promptly to writing and filed by the pharmacist; (6) By  
7 refilling any written, electronically transmitted or oral prescription order if a refill is  
8 authorized by the prescriber either in the original prescription order, by an electronically  
9 transmitted refill order that is documented promptly and filed by the pharmacist or by an  
10 oral refill order that is documented promptly and filed by the pharmacist.”)

11 6. The conduct and circumstances described above constitutes unprofessional  
12 conduct pursuant to A.R.S. § 32-1901.01(B)(8) (Committing a felony, whether or not  
13 involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-  
14 related offense. In either case, conviction by a court of competent jurisdiction or a plea  
15 of no contest is conclusive evidence of the commission).

16 7. The conduct and circumstances described above constitute unprofessional  
17 conduct pursuant to A.R.S. § 32-1901.01(B)(10) (Violating a federal or state law or  
18 administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous  
19 drugs, controlled substances or precursor chemicals when determined by the board or by  
20 conviction in a federal or state court).

21 8. The conduct and circumstances described above constitutes unprofessional  
22 conduct pursuant to A.R.S. § 32-1901.01(B)(11) (Knowingly dispensing a drug without a  
23 valid prescription order as required pursuant to section 32-1968, subsection A).

24 9. The conduct and circumstances described above constitutes unprofessional  
25 conduct pursuant to A.R.S. § 32-1901.01(B)(20) (Violating a formal order, terms of  
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1 probation, a consent agreement or a stipulation issued or entered into by the Board or its  
2 executive director).

3 **ORDER**

4 Based upon the above Findings of Fact and Conclusions of Law, the Board issues  
5 the following Order:

6 1. Respondent's Pharmacist License No. S007308, which was issued to  
7 Respondent for the practice of Pharmacy in the State of Arizona, is hereby  
8 **SUSPENDED**, subject to the following terms and conditions:

9 A. Respondent's license is suspended for at least six (6) months from  
10 the effective date of this Consent Agreement. The period of suspension shall be  
11 determined by the Board after reviewing (i) information from Pharmacists  
12 Assisting Pharmacists of Arizona ("PAPA") regarding Respondent's compliance  
13 with the terms of the PAPA program/contract; (ii) a progress  
14 report/recommendation from Respondent's PAPA counselor, which may be  
15 submitted in writing to the Board; and (iii) any input from Respondent.

16 B. No sooner than six (6) months from the effective date of this  
17 Consent Agreement, Respondent may request in writing that the Board terminate  
18 the suspension. Respondent's request to terminate suspension will be considered  
19 at a regularly scheduled Board meeting. Respondent is required to personally  
20 appear at that Board meeting.

21 C. Respondent shall, within ten (10) days of the effective date of this  
22 Order, return his pharmacist license to the Board office for the period of  
23 suspension.

24 D. Within ten (10) days of the effective date of this Consent  
25 Agreement, Respondent shall sign a new five-year contract with PAPA.

1 Respondent shall abide by each and every requirement of the PAPA contract.  
2 Failure to abide by the PAPA contract's terms or to complete the entire term of the  
3 PAPA contract is a violation of this Order.

4 2. Upon termination of the period of suspension by the Board, Respondent's  
5 reinstated license shall immediately be placed on **PROBATION**. Respondent's  
6 probation is subject to the following conditions:

7 A. No sooner than four and a half (4.5) years from the beginning of  
8 Respondent's probationary period, Respondent shall request in writing that the  
9 Board terminate his probation. Respondent's request for termination will be  
10 considered at a regularly scheduled Board meeting. Respondent is required to  
11 personally appear at that Board meeting. Respondent's probationary period will  
12 continue until Respondent's request for termination is received and the Board  
13 terminates the probation.

14 B. Respondent shall continue to comply with the terms of his PAPA  
15 contract.

16 C. Respondent shall furnish all pharmacy employers with a copy of this  
17 Consent Agreement. Respondent shall ensure that all pharmacy employers submit  
18 to the Board a written acknowledgement that they have received a copy of this  
19 Consent Agreement within ten (10) days of entering into an employment  
20 relationship with Respondent.

21 D. Respondent shall not serve as a preceptor pharmacist or pharmacist  
22 in charge.

23 E. Respondent shall advise the Board within ten (10) days of any  
24 change in pharmacy employment status.

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F. Within four and a half (4.5) years from the beginning of Respondent's probationary period, Respondent shall complete 400 hours of community service approved by Board staff. Respondent shall ensure that all entities to which he provides community service verify in writing to the Board the number of hours completed within 30 days of completing the community service.

3. Respondent shall pay all necessary fees and complete all continuing education requirements throughout the term of his suspension and probation.

4. Throughout the term of Respondent's suspension and probation, Respondent shall personally appear before the Board when requested to do so by the Board or Board staff.

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

6. Respondent shall obey all federal and state laws and rules governing the practice of pharmacy.

7. Respondent shall pay all costs associated with complying with this Consent Agreement, including all expenses associated with PAPA.

8. If Respondent violates this Order in any way or fails to fulfill the requirements 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 Respondent's license. The issue at such a hearing will be limited solely to whether this Order has been violated.

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DATED this 27<sup>th</sup> day of November, 2009.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By:   
HAL WAND, R.Ph.  
Executive Director

ORIGINAL OF THE FORGOING FILED  
this 27 day of November, 2009, with:

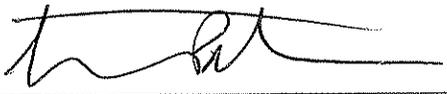
Arizona State Board of Pharmacy  
1700 West Washington, Suite 250  
Phoenix, Arizona 85007

EXECUTED COPY OF THE FOREGOING MAILED  
BY FIRST-CLASS and CERTIFIED MAIL  
this 27 day of November, 2009, to:

Paul Dahlk  
924 E. Grandview Road  
Phoenix, Arizona 85022

EXECUTED COPY OF THE FOREGOING MAILED  
this 27 day of November, 2009, to:

Elizabeth A. Campbell  
Assistant Attorney General  
1275 W. Washington Street, CIV/LES  
Phoenix, Arizona 85007  
Attorney for the Board



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