

1 5. This Consent Agreement does not constitute a dismissal or resolution of other
2 matters currently pending before the Board, if any, and does not constitute any waiver,
3 express or implied, of the Board's statutory authority or jurisdiction regarding any other
4 pending or future investigation, action or proceeding. The acceptance of this Consent
5 Agreement does not preclude any other agency, subdivision or officer of this State from
6 instituting other civil or criminal proceedings with respect to the conduct that is the subject
7 of this Consent Agreement.

8 6. All admissions made by Respondent are solely for final disposition of this
9 matter and any subsequent related administrative proceedings or civil litigation involving
10 the Board and Respondent. Therefore, said admissions by Respondent are not intended
11 or made for any other use, such as in the context of another state or federal government
12 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
13 any other state or federal court.

14 7. Upon signing this agreement, and returning this document (or a copy thereof) to
15 the Board's Executive Director, Respondent may not revoke the acceptance of the
16 Consent Agreement. Respondent may not make any modifications to the document. Any
17 modifications to this original document are ineffective and void unless mutually approved
18 by the parties.

19 8. If the Board does not adopt this Consent Agreement, Respondent will not
20 assert as a defense that the Board's consideration of this Consent Agreement constitutes
21 bias, prejudice, prejudgment or other similar defense.

22 9. This Consent Agreement, once approved and signed, is a public record that will
23 be publicly disseminated as a formal action of the Board and will be reported to the
24 National Practitioner Data Bank and to the Arizona Regulatory Board of Physician
25 Assistant's website.

1 10. If any part of the Consent Agreement is later declared void or otherwise
2 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in
3 force and effect.

4 11. Any violation of this Consent Agreement constitutes unprofessional conduct
5 and may result in disciplinary action. A.R.S. § § 32-2501(21)(dd) (“[v]iolating a formal
6 order, probation agreement or stipulation issued or entered into by the board or its
7 executive director under this chapter”) and 32-2551.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

 Dated: 10-14-08
AUGUSTIN E. MARSHALL, P.A.-C

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for the regulation and control of
3 physician assistants in the State of Arizona.

4 2. Respondent is the holder of license number 3234 for the practice of health
5 care tasks in the State of Arizona.

6 3. The Board initiated case number PA-06-0036A after receiving notification
7 that the State of New York Department of Health State Board for Professional Medical
8 Conduct ("BPMC") opened an investigation against Respondent for allegations of
9 unprofessional conduct at a hospital.

10 4. In 2004, a complaint was filed against Respondent alleging that Respondent
11 had engaged in actions constituting unprofessional conduct during his employment as a
12 physician assistant. Hospital employment records indicated Respondent was notified of
13 the complaint by hospital administration on August 26, 2004.

14 5. Respondent was scheduled to discuss the matter with the hospital's Labor
15 Relations on August 27, 2004, but Respondent failed to cooperate with the investigation.
16 On August 30, 2004, the hospital notified Respondent the interview was being
17 rescheduled on September 2, 2004 and that failure to appear could result in disciplinary
18 action, including termination. Respondent submitted his letter of resignation to the hospital
19 on September 1, 2004.

20 6. Respondent submitted an application for licensure to the Arizona Regulatory
21 Board of Physician Assistants dated and signed October 14, 2004. At that time,
22 Respondent reasonably believed that he had answered all application questions truthfully
23 and to the best of his knowledge. However, Respondent presently understands that at the
24 time he answered the application questions he should have known that at least one of the
25 answers given was incorrect. As a result, Respondent has failed to answer truthfully to

1 questions regarding whether any actions, restrictions or limitations had been taken against
2 him by any health care provider; whether he ever had hospital privileges suspended or
3 restricted in any way and whether he had ever been counseled regarding his behavior by
4 any health care provider.

5 7. On July 14, 2006, BPMC sent Respondent a notice of the allegation of
6 unprofessional conduct and offered Respondent a Consent Agreement for Surrender of
7 his professional license. Respondent refused to surrender.

8 8. On October 13, 2006, Respondent disclosed to the Arizona Regulatory
9 Board of Physicians Assistants that a complaint had been filed against his New York
10 license alleging unprofessional conduct.

11 9. On March 8, 2007, BPMC issued a Determination and Order suspending
12 Respondent's license until December 31, 2009, and ordered him to complete a training
13 course and complete the certification process of the National Committee on Certification of
14 Physician Assistants.

15 10. Respondent petitioned the State of New York Department of Health
16 Administrative Review Board for Professional Medical Conduct ("**ARB**") for review of
17 BPMC's Determination and Order suspending his license until December 31, 2009.

18 11. On August 14, 2007, the ARB issued Determination and Order No. 07-54 in
19 which it revoked Respondent's license to practice as a Physician Assistant in the State of
20 New York.

21 12. Respondent admits to the acts described above and that they constitute
22 unprofessional conduct pursuant to A.R.S. §32-2501(21)(bb) ("[k]nowingly making a false
23 or misleading statement on a form required by the board or in written correspondence or
24 attachments furnished by the board.") and A.R.S. §32-2501(21)(v) ("[r]efusal, revocation,
25 suspension, limitation or restriction of a certification or license by any other licensing

1 jurisdiction for the inability to safely and skillfully perform health care tasks or for
2 unprofessional conduct as defined by that jurisdiction that directly or indirectly corresponds
3 to any act of unprofessional conduct as prescribed by this paragraph.”).

4 **CONCLUSIONS OF LAW**

5 1. The Board possesses jurisdiction over the subject matter hereof and over
6 Respondent.

7 2. The Board possesses statutory authority to enter into a consent agreement
8 with a physician assistant and accept the surrender of an active license from a physician
9 who admits to having committed an act of unprofessional conduct. A.R.S. § 32-
10 2551(P)(2).

11 **ORDER**

12 IT IS HEREBY ORDERED THAT License Number 3234 issued to Augustin E.
13 Marshall, P.A.-C for the performance of healthcare tasks in the State of Arizona, is
14 surrendered and that Augustin E. Marshall, P.A.-C immediately return his wallet card and
15 certificate of licensure to the Board.

16 DATED and effective this 12TH day of NOVEMBER, 2008.



18 ARIZONA REGULATORY BOARD OF PHYSICIAN
19 ASSISTANTS

20 By: *L. Wynn*
21 LISA WYNN
22 Executive Director

23 ORIGINAL of the foregoing filed
24 this 12th day of November, 2008 with:

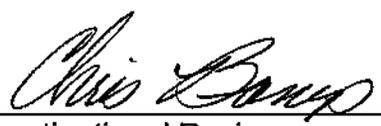
25 Arizona Regulatory Board of Physician Assistants

1 9545 E. Doubletree Ranch Road
2 Scottsdale, AZ 85258

3 EXECUTED COPY of the foregoing mailed
4 this 24 day of November, 2008 to:

5 Augustin E. Marshall, P.A.-C
6 Address of Record

7 Christopher R. Blevins
8 Benavidez Law Group, P.C.
9 7440 N. Oracle Road, Building 7
10 Tucson, Arizona 85704
11 *Attorneys for Augustin Marshall*

12 
13 _____
14 Investigational Review

15
16
17
18
19
20
21
22
23
24
25