

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

2 In the Matter of:

Investigation Case Number 03-0020-PHR

3 MILES LOCKE, RPh.)
4 Holder of License No. 6309)
5 For the Practice of Pharmacy)
6 In the State of Arizona,)
Respondent)

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

7 **RECITALS**

8 In the interest of a prompt and judicious settlement of this case, consistent with the public
9 interest, statutory requirements and the responsibilities of the Arizona State Board of Pharmacy
10 (“Board”) and under A.R.S. §§ 32-1901 *et. seq.* and 41-1092.07(F)(5) , MILES LOCKE
11 (“Respondent”), holder of pharmacist license number 6309 to practice pharmacy in the State of
12 Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and
13 Order (“Consent Agreement”) as a final disposition of this matter.

14 1. Respondent has read and understands this Consent Agreement and has had the
15 opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity
16 to discuss this Consent Agreement with an attorney.

17 2. Respondent understands that he has a right to a public administrative hearing concerning
18 the above-captioned matter, at which hearing he could present evidence and cross-examine witnesses.
19 By entering into this Consent Agreement, Respondent freely and voluntarily relinquishes all right
20 to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal,
21 judicial review or any other administrative and/or judicial action, concerning the matters set forth
22 herein. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

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

25 4. Respondent understands this Consent Agreement deals with Board Investigation
26 Case No. 03-0020-PHR involving allegations of unprofessional conduct against Respondent. The

1 investigation into these allegations against Respondent shall be concluded upon the Board's
2 adoption of this Consent Agreement.

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

10 6. Respondent acknowledges and agrees that upon signing this Consent Agreement and
11 returning this document to the Board's Executive Director, Respondent may not revoke his acceptance
12 of the Consent Agreement or make any modifications to the document regardless of whether the
13 Consent Agreement has been signed by the Executive Director. Any modification to this original
14 document is ineffective and void unless mutually agreed by the parties in writing.

15 7. Respondent understands that the Consent Agreement shall not become effective unless
16 and until adopted by the Board and signed by its Executive Director.

17 8. If a court of competent jurisdiction rules that any part of this Consent Agreement is void
18 or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full
19 force and effect.

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

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

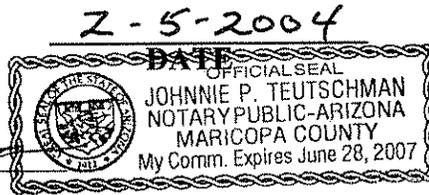
26 11. Respondent understands that any violation of this Consent Agreement constitutes

1 unprofessional conduct under A.R.S. § 32-1927 (A) (17) (the licensee violated a formal order, terms of
2 probation, a consent agreement or a stipulation issued or entered into by the board or its Executive
3 Director pursuant to this chapter) and may result in disciplinary action under A.R.S. § 32-1927.

4 **REVIEWED AND ACCEPTED BY:**

5 Miles Locke
6 MILES LOCKE

7 Johnnie P. Teutschman
8 Notary Public



11 **FINDINGS OF FACT**

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

14 12. The Board is the duly constituted authority for the regulation and control of the practice of
15 pharmacy in the State of Arizona.

16 13. The Board possesses jurisdiction over the subject matter and over Respondent as a licensee
17 of the Board under A.R.S. § 32-1901, et seq.

18 14. Respondent is the holder of a license 6309 which permits him to engage in the practice of
19 pharmacy in the State of Arizona.

20 15. Respondent was employed as a pharmacist between the dates of May 19, 2003 and
21 December 16, 2003 at OSCO Drug Pharmacy #9328, 7901 E. Thomas Road., Scottsdale, Arizona. On
22 December 16, 2003, Richard Mazzoni, RPh, OSCO/Albertson's Director of Pharmacy Operations
23 contacted the Board's Executive Director to report the following:

24 On December 16, 2003, Respondent was removed from the OSCO Drug #9328 pharmacy by
25 paramedics summoned by OSCO pharmacy personnel who believed that Respondent required acute
26 medical care. While examining Respondent, the paramedics discovered a bottle of Norco® tablets
hidden in Respondent's sock. Norco® is a Class III Controlled Substance as defined in A.R.S. § 36-
2514 and 21 C.F.R. § 1308.13.

1 16. On December 23, 2003, a Board Compliance Officer conducted an audit of selected
2 Controlled Substances at OSCO Drug Pharmacy #9328 from the required annual inventory on May 4,
3 2003 to the date of the audit, December 23, 2003. (see Exhibit A)

4 17. The audit results show that Respondent removed approximately 1,837 dosage units of
5 Norco® from OSCO Drug #9328 pharmacy, for personal use, without a valid prescription order in
6 violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21.

7 18. The audit results show that Respondent removed approximately 4,933 dosage units of
8 hydrocodone with APAP 10mg. /325 mg. from OSCO Drug #9328 pharmacy, for personal use,
9 without a valid prescription in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21.

10 Hydrocodone w/APAP is a Class III Controlled Substance as defined in A.R.S. § 36-2514 and 21
11 C.F.R. § 1308.13

12 19. The audit results show that Respondent removed approximately 933 dosage units of
13 hydrocodone with APAP 10mg./500mg. from OSCO Drug #9328 pharmacy, for personal use, without
14 a valid prescription order, in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21.

15 20. The audit results show that Respondent removed approximately 220 dosage units of
16 Lortab® from OSCO Drug #9328 pharmacy, for personal use, without a valid prescription order, in
17 violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21. Lortab ® is a Class III Controlled
18 Substance, as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13

19 21. The audit results show that Respondent removed approximately 700 dosage units of
20 hydrocodone with APAP 7.5mg./325 mg. from OSCO Drug #9328 pharmacy, for personal use,
21 without a valid prescription order, in violation of A.R.S. § 36-2525(D) and 21 C.F.R. § 1306.21.

22 22. Respondent is addicted to narcotics and controlled substances and to support his addiction
23 illegally obtained controlled substances from OSCO Drug Pharmacy #9328 in the quantities stated in
24 Findings of Fact in paragraphs 17 through 21.

25 23. Respondent voluntarily entered into the Pharmacists Assisting Pharmacists of Arizona
26 (PAPA), a substance abuse treatment program that was recommended by the Board and authorized

1 under A.R.S. § 32-1932.01.

2 **CONCLUSIONS OF LAW**

3 24. The Board is the duly constituted authority for the regulation and control of the practice of
4 pharmacy in the state of Arizona, under A.R.S. § 32-1901, et seq.

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

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

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

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

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

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

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

23 **ORDER**

24 Based upon the above Findings of Fact and Conclusions of Law and under the authority
25 granted to the Board under A.R.S. § 32-1928, 41-1092.07 (F)(5), and A.A.C. R4-23-104(G).

26 **IT IS HEREBY ORDERED** that:

27 26. Effective December 16, 2003, License No. 6309, which was issued to Respondent for the
28 practice of pharmacy in the State of Arizona, is hereby placed on **SUSPENSION**, for a period of time
29 to be determined by the steering committee of the PAPA, no less than six (6) months, and thereafter
30 **PROBATION** for a period of five (5) years upon adoption of this Consent Agreement by the Board.
31 The **SUSPENSION** and **PROBATION** are subject to the following conditions:

1 27. Respondent shall initiate a five (5) year contract with the Pharmacists Assisting Pharmacists
2 and shall abide by every requirement of that contract.

3 28. Respondent shall pay all fees and complete all Continuing Education requirements
4 throughout the term of his probation to maintain Pharmacist License Number 6309.

5 29. Respondent shall not serve as a preceptor pharmacist or pharmacist-in-charge throughout
6 the term of his suspension and probation.

7 30. Respondent shall obey all federal and state laws and rules governing the practice of
8 pharmacy.

9 31. Respondent shall furnish the Board with a list of all jurisdictions in which he maintains or
10 has maintained licensure in the profession of pharmacy along with the registration number of said
11 licenses.

12 32. Respondent is required to advise the Board immediately of any change in pharmacy
13 employment status throughout the term of his probation.

14 33. Respondent is required to furnish all pharmacy employers with a copy of this Board Order
15 throughout the term of his probation.

16 34. Respondent shall perform four hundred (400) hours of community service approved by the
17 Board before the term of probation is completed.

18 35. Respondent shall submit to a minimum of two (2) monthly random biological fluid
19 screenings for the presence of drugs or alcohol in his body as determined by PAPA during the
20 Probation. Nevertheless, upon Respondent's acceptance of employment as a pharmacist, he shall
21 submit to a minimum of four (4) monthly random biological fluid screenings for the presence of drugs
22 or alcohol in his body for the remainder of the Probation.

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

1 37. Respondent shall appear before the Board at a regularly scheduled Board meeting on or
2 after March 17, 2009 to request that the probation imposed by this Order be terminated.
3

4 **DATED and EFFECTIVE this 17th day of March, 2004**

5 **ARIZONA STATE BOARD OF PHARMACY**

6 

7 _____
8 Hal Wand, RPh
9 Executive Director
10 Arizona State Board of Pharmacy

11 ORIGINAL of the foregoing, fully executed,
12 filed this 17th day of March, 2004, with:

13 Arizona State Board of Pharmacy
14 4425 W. Olive Avenue, #140
15 Glendale, Arizona 85302

16 Fully Executed Copy of the foregoing sent
17 via Certified US mail this 19th day of
18 March, 2004 to:

19 MILES LOCKE
20 13520 N. 103rd Place
21 Phoenix, AZ 85028

22 Copy or the foregoing mailed
23 this 19th day of March, 2004 to:

24 Roberto Pulver
25 Assistant Attorney General
26 1275 W. Washington, CIV/LES
Phoenix, Arizona 85007
Attorney for the State