

1 2004-05-H

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

3 In the Matter of:

4 JEFF SZUBINSKI  
5 Holder of License No. 11841  
6 For the Practice of Pharmacy  
7 In the State of Arizona,  
Respondent

Case Number 2004-05-PHR

**CONSENT AGREEMENT AND ORDER  
FOR REVOCATION**

8 TO: JEFF SZUBINSKI  
9 9169 W. Lisbon Lane  
Peoria, Arizona 85381

10 **RECITALS**

11 In the interest of a prompt and judicious settlement of this case, consistent with the public  
12 interest, statutory requirements and responsibilities of the Arizona State Board of Pharmacy  
13 (“Board”), and under A.R.S. § 32-1928, *et seq.* and 41-1092(F)(5), JEFF SZUBINSKI, holder of  
14 license number 11841 to practice pharmacy in the State of Arizona (“Respondent”), and the Board  
15 enter into the following Recitals, Finding of Fact, Conclusions of Law and Order (“Consent  
16 Agreement”) as the final disposition of this matter.

17 1. Respondent has read and understands this Consent Agreement as set forth herein, and  
18 has been allowed the opportunity to discuss this Consent Agreement with an attorney. Respondent  
19 voluntarily enters into this Consent Agreement for the purpose of avoiding the expense and  
20 uncertainty of an administrative hearing.

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

1     irrevocable.

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

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

11            5.     Respondent understands that this Consent Agreement deals with Board Investigation  
12    Case No. 2004-05 involving allegations of unprofessional conduct against Respondent. The  
13    investigation into these allegations against Respondent shall be concluded upon the Board's adoption  
14    of this Consent Agreement.

15            6.     All admissions made by Respondent in this Consent Agreement are made solely for the  
16    final disposition of this matter, and any related administrative proceedings or civil litigation involving  
17    the Board and Respondent. Therefore, any admissions made by Respondent in this Consent  
18    Agreement are not intended for any other use, such as in the context of another regulatory agency  
19    proceedings, or civil or criminal proceedings, whether in the State of Arizona or in any other state or  
20    federal court.

21            7.     Respondent acknowledges and agrees that, upon signing this Consent Agreement and  
22    returning this document to the Board's Executive Director, Respondent may not revoke his  
23    acceptance of the Consent Agreement or make any modifications to the document, regardless of  
24    whether the Consent Agreement has been issued by the Board's Executive Director. Any modification  
25    to this original document is ineffective and void unless mutually approved by the parties in writing.

26            8.     Respondent understands that the foregoing Consent Agreement shall not become

1 effective unless and until adopted by the Board and signed by its Executive Director.

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

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

8 11. Respondent understands that any violation of this Consent Agreement constitutes  
9 unprofessional conduct under A.R.S. §32-1927(A)(17)([t]he licensee violated a formal order, terms of  
10 probation, a consent agreement or a stipulation issued or entered into by the board or its executive  
11 director pursuant to this chapter) and may result in disciplinary action under A.R.S. § 32-1927.

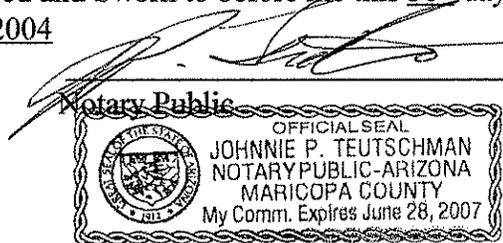
12 DATED: 3/30/04

  
Jeff Szubinski

13 Reviewed and Approved as to form:

14 Subscribed and Sworn to before me this 30<sup>th</sup> day of  
15 March, 2004

16 By: \_\_\_\_\_  
17 (*Insert Name of Attorney, if any*), Esq.  
18 Attorney for Respondent



20 **FINDINGS OF FACT**

21 By stipulation of the parties, this Consent Agreement is entered into for final disposition of the  
22 matters described therein. Respondent admits to the following Finding of Fact:

23 12. The Board possesses jurisdiction over the subject matter and over Respondent as a  
24 licensee of the Board, under A.R.S. § 32-1901, *et seq.*

25 13. The Board is the duly constituted authority for the regulation and control of the  
26 practice of pharmacy in the State of Arizona.

14. Respondent is the holder of License No. 11841 for the practice of pharmacy in the

1 State of Arizona.

2 15. On June 19, 2003, Respondent signed and entered into a Consent Agreement with the  
3 Board. A condition of the Consent Agreement was that the Respondent comply with all requirements  
4 of the Pharmacists Assisting Pharmacists of Arizona ("PAPA") contract.

5 16. On June 19, 2003, the Board adopted and the Executive Director signed the Consent  
6 Agreement, thereby rendering the agreement effective.

7 17. Respondent refused to enter into the PAPA program as required by the Consent  
8 Agreement. From May 21, 2003 to October 7, 2003, Respondent did not enter into a contract with  
9 PAPA as required by the Consent Agreement.

10 18. On October 8, 2003, Respondent signed a PAPA contract that required him to attend  
11 three (3) self-help meetings per week, submit twenty-four (24) random urine screens per year and  
12 attend weekly peer group counseling sessions, and remain in the Lighthouse three-quarter house for a  
13 minimum of six months.

14 19. On October 22, 2003 and October 27, 2003, Respondent was scheduled to have a  
15 random urine screen and he did not show up for the appointment in violation of the PAPA contract  
16 and the Consent Agreement.

17 20. On October 28, 2003, Respondent tried to submit his urine sample and the laboratory  
18 would not accept the sample because the temperature of the urine was below ninety (90) degrees,  
19 which is a violation of the PAPA contract..

20 21. On March 8, 2004, Respondent tested positive for meprobamate metabolites in  
21 violation of the contract. The positive result was confirmed by a Medical Review Officer.

22 22. On March 12, 2004, Respondent's PAPA contract was terminated because of positive  
23 urine screen(s) and non-compliance with the PAPA contract and the Consent Agreement.

24 23. Respondent's March 2004 termination from the PAPA program is his second  
25 termination from the program. Respondent previously participated in PAPA in the early part of 2003,  
26 but was terminated from the program due to his non-compliance.

