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MAR 29 2010
ARIZONA STATE
BOARD OF PHARMACY

**BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

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| In the Matter of<br><br>**KAREN LIEB**<br><br>Holder of License No. S008619<br>For the Practice of Pharmacy<br>In the State of Arizona | Board Case No. 10-0052-PHR<br><br>**CONSENT AGREEMENT AND ORDER FOR SUSPENSION AND PROBATION** |

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and the responsibilities of the Arizona State Board of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Karen Lieb ("Respondent"), holder of Pharmacist License Number S008619 in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final disposition of this matter.

## RECITALS

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

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

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

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

5. Respondent understands this Consent Agreement deals with Board Complaint No. 3768 involving allegations of unprofessional conduct against Respondent. The investigation into these allegations against Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

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

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

8. Respondent acknowledges and agrees that, upon signing this Consent Agreement and returning this document to the Board's Executive Director, she may not revoke her acceptance of the Consent Agreement or make any modifications to the

document regardless of whether the Consent Agreement has been signed by the Executive Director. Any modification to this original document is ineffective and void unless mutually agreed by the parties in writing.

9. This Consent Agreement is effective only when accepted by the Board and signed by the Executive Director.

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

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

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

13. Respondent agrees that the Board will adopt the following Findings of Fact, Conclusions of Law and Order.

ACCEPTED AND AGREED BY RESPONDENT

Karen Lieb

Karen Lieb

Dated: 3/25/2010

Subscribed and sworn to before me in the County of Coconino, State of Arizona, this 25 day of March, 2010, by Karen Lieb.

CECELIA MANYGOATS
NOTARY PUBLIC - ARIZONA
COCONINO COUNTY
My Commission Expires
December 12, 2010

NOTARY PUBLIC

My Commission expires: Dec. 12, 2010

## FINDINGS OF FACT

1. On December 30, 2006, Respondent signed a Consent Agreement for Reinstatement of License and Probation in Board Case No. 07-0031-HC (the "2006 Consent Agreement"). The 2006 Consent Agreement became effective on January 25, 2007.

2. The 2006 Consent Agreement required, among other things, that Respondent complete all terms of the Pharmacists Assisting Pharmacists of Arizona ("PAPA") contract that Respondent had signed on June 20, 2006 (the "PAPA Contract"). 2006 Consent Agreement at 5, ¶b.

3. The PAPA Contract required, among other things that Respondent completely abstain from mood-altering drugs except on prescription from her family physician after consultation with PAPA. PAPA Contract at 2, ¶4.

4. On February 15, 2010, Respondent tested positive for oxymorphone in violation of the PAPA Contract.

## CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant to A.R.S. § 32-1901 *et seq.*

2. Pursuant to A.R.S. § 32-1927(A)(1), the Board may discipline a pharmacist who has engaged in unprofessional conduct.

3. Respondent's practice and conduct, as described in the Findings of Fact, constitutes unprofessional conduct pursuant to A.R.S. § 32-1901.01(B)(20) (Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the Board or its executive director).

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## ORDER

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

1. Respondent's Pharmacist License No. S008619, which was issued to Respondent for the practice of pharmacy in the State of Arizona, is hereby **SUSPENDED**, subject to the following terms and conditions:

A. Respondent's license is suspended for at least six (6) months from February 24, 2010, the date Respondent began inpatient treatment. The period of suspension shall be determined by the Board after reviewing (i) information from Pharmacists Assisting Pharmacists of Arizona ("PAPA") regarding Respondent's compliance with the terms of the PAPA program/contract; (ii) a progress report/recommendation from Respondent's PAPA counselor, which may be submitted in writing to the Board; and (iii) any input from Respondent.

B. No sooner than six (6) months from February 24, 2010, Respondent may request in writing that the Board terminate the suspension. Respondent's request to terminate suspension will be considered at a regularly scheduled Board meeting. Respondent is required to personally appear at that Board meeting.

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

D. **Upon execution of this Consent Agreement, Respondent shall immediately sign a <u>new</u> contract with PAPA which shall extend for the entire term of her suspension and probation under this Consent Agreement.** Respondent shall abide by each and every requirement of the new PAPA contract.

Failure to participate in the PAPA program, complete the PAPA program, or to abide by the PAPA contract's terms is a violation of this Order.

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

A. No sooner than five (5) years from the beginning of Respondent's probationary period, Respondent shall request in writing that the Board terminate her probation. Respondent's request for termination will be considered at a regularly scheduled Board meeting. Respondent is required to personally appear at that Board meeting. Respondent's probationary period will continue until Respondent's request for termination is received and the Board terminates the probation.

B. Respondent shall continue to comply with the terms of her PAPA contract.

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

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

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

3. Within five (5) years from the execution date of this Consent Agreement, Respondent shall complete 400 hours of community service approved by Board staff.

Respondent shall ensure that all entities to which she provides community service verify in writing to the Board the number of hours completed within 30 days of Respondent completing the community service.

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

5. 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.

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

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

8. Respondent shall execute all appropriate release of information forms to permit the Respondent's treatment professionals and PAPA to communicate with the Board regarding Respondent's treatment.

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

10. 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 28th day of MARCH, 2010.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By: _____
HAL WAND, R.Ph.
Executive Director

ORIGINAL OF THE FORGOING FILED
this 29 day of March, 2010, 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 29 day of March, 2010, to:

Karen Lieb
515 Bennett Drive
Flagstaff, Arizona 86001

EXECUTED COPY OF THE FOREGOING MAILED
this 29 day of March, 2010, to:

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

_____

750845(BPA)