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AZ BOARD OF PHARMACY

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

9
10 In the Matter of
11 **William Duncan**
12 Holder of License No. S014750
13 To Practice as a Pharmacist in the State of
Arizona

Board Case No. 12-0021-PHR

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

14
15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona State Board
17 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, William Duncan
18 ("Respondent"), holder of Pharmacist License Number S014750 in the State of Arizona,
19 and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law
20 and Order ("Consent Agreement") as a final disposition of this matter.

21 **RECITALS**

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
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1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning this matter; at which hearing he could present evidence and cross
3 examine witnesses. By entering into this Consent Agreement, Respondent knowingly
4 and voluntarily relinquishes all right to such an administrative hearing, as well as rights
5 of rehearing, review, reconsideration, appeal, judicial review or any other administrative
6 and/or judicial action, concerning the matters set forth herein.

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

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

11 5. Respondent understands this Consent Agreement deals with Board
12 complaint number 4034 involving allegations of unprofessional conduct against
13 Respondent. The investigation into these allegations against Respondent shall be
14 concluded upon the Board's adoption of this Consent Agreement.

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

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

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

4 9. This Consent Agreement is subject to the approval of the Board and is
5 effective only when accepted by the Board and signed by the Executive Director. In the
6 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
7 be of no evidentiary value and shall not be relied upon nor introduced in any action by
8 any party, except that the parties agree that should the Board reject this Consent
9 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
10 Board was prejudiced by its review and discussion of this document or any records
11 relating thereto.

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

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

19 12. Respondent understands that any violation of this Consent Agreement
20 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
21 1901.01(B)(10) & (11), A.R.S. § 32-1927(A)(1) and A.R.S. § 32-1968(A).

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

24 ...

25 ...

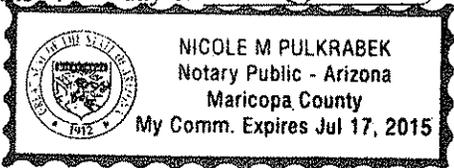
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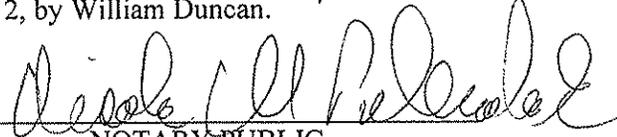
1 ACCEPTED AND AGREED BY RESPONDENT

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3 
William Duncan

Dated: 2/13/2012

4 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
5 this 13th day of Feb, 2012, by William Duncan.



6 
NOTARY PUBLIC

7 My Commission expires: 7-17-2015

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9 **FINDINGS OF FACT**

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

12 2. Respondent is the holder of license number S014750 to practice as a
13 pharmacist in the State of Arizona.

14 3. At all times relevant to these findings, Respondent worked as a pharmacist
15 at Walgreen's #10018 (the "Pharmacy").

16 4. In the Fall of 2011, Respondent admitted to diverting hydrocodone for the
17 past 6 to 8 months from the Pharmacy. Respondent's employment was terminated after
18 he tested positive for hydrocodone and hydromorphone in a random drug test.

19 5. Hydrocodone is a Schedule III controlled substance. A.R.S. § 36-
20 2514(A)(5)(d).

21 6. On December 20, 2011, Respondent signed a Pharmacists Assisting
22 Pharmacists Agreement (PAPA) for his substance abuse issues. Respondent has
23 successfully completed the in-patient treatment program before signing the PAPA
24 contract.

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1 CONCLUSIONS OF LAW

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

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

6 3. Respondent's conduct, as described in the Findings of Fact, constitutes a
7 violation of A.R.S. § 32-1968(A) ("A prescription-only drug shall be dispensed only
8 under one of the following conditions: (1) By a medical practitioner in conformance with
9 A.R.S. § 32-1921; (2) On a written prescription order bearing the prescribing medical
10 practitioner's manual signature; (3) On an electronically transmitted prescription order
11 containing the prescribing medical practitioner's electronic or digital signature that is
12 reduced promptly to writing and filed by the pharmacist; (4) On a written prescription
13 order generated from electronic media containing the prescribing medical practitioner's
14 electronic or manual signature. A prescription order that contains only an electronic
15 signature must be applied to paper that uses security features that will ensure the
16 prescription order is not subject to any form of copying or alteration; (5) On an oral
17 prescription order that is reduced promptly to writing and filed by the pharmacist; (6) By
18 refilling any written, electronically transmitted or oral prescription order if a refill is
19 authorized by the prescriber either in the original prescription order, by an electronically
20 transmitted refill order that is documented promptly and filed by the pharmacist or by an
21 oral refill order that is documented promptly and filed by the pharmacist.")

22 4. The conduct and circumstances described above constitutes unprofessional
23 conduct pursuant to A.R.S. § 32-1901.01(B)(10) (violating a federal or state law or
24 administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous
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1 drugs, controlled substances, or precursor chemicals) and A.R.S. § 321901.01(B)(10)
2 (knowingly dispensing a drug without a valid prescription order).

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. S014750 is hereby **SUSPENDED**,
7 subject to the following terms and conditions:

8 A. Respondent's license is suspended for at least six (6) months from
9 **December 20, 2011**, the date Respondent signed his contract with PAPA. The
10 period of suspension shall be determined by the Board after reviewing (i)
11 information from PAPA regarding Respondent's compliance with the terms of his
12 PAPA program/contract; (ii) a progress report/recommendation from
13 Respondent's PAPA counselor, which may be submitted in writing to the Board;
14 and (iii) any input from Respondent.

15 B. No sooner than six (6) months from **December 20, 2011**,
16 Respondent may request in writing that the Board terminate the suspension.
17 Respondent's request to terminate suspension will be considered at a regularly
18 scheduled Board meeting. Respondent is required to personally appear at that
19 Board meeting.

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

23 D. On December 20, 2011, Respondent signed a contract with PAPA.
24 Respondent's PAPA contract shall extend for the entire term of his suspension and
25 probation under this Consent Agreement. Respondent shall abide by each and
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1 every requirement of the PAPA contract. Failure to participate in the PAPA
2 program, complete the PAPA program or to abide by the PAPA contract's terms is
3 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 five (5) years from the beginning of Respondent's
8 probationary period, Respondent shall request in writing that the Board terminate
9 his probation. Respondent's request for termination will be considered at a
10 regularly scheduled Board meeting. Respondent is required to personally appear
11 at that Board meeting. Respondent's probationary period will continue until
12 Respondent's request for termination is received and the Board terminates the
13 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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1 3. Within five (5) years from the execution date of this Consent Agreement,
2 Respondent shall complete 400 hours of community service approved by Board staff.
3 Respondent shall ensure that all entities to which he provides community service verify
4 in writing to the Board the number of hours completed within 30 days of Respondent
5 completing the community service.

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

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

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

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

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

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

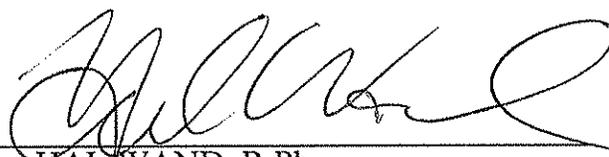
21 10. If Respondent violates this Order in any way or fails to fulfill the
22 requirements of this Order, the Board, after giving the Respondent notice and the
23 opportunity to be heard, may revoke, suspend or take other disciplinary actions against
24 Respondent's license. The issue at such a hearing will be limited solely to whether this
25 Order has been violated.
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DATED this 16 day of March, 2012.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By: 
HAL WAND, R.Ph.
Executive Director

ORIGINAL OF THE FOREGOING FILED
this 16 day of March, 2012 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 16 day of March, 2012 to:

William Duncan
5013 W. Siesta Way
Laveen, Arizona 85339
Respondent

EXECUTED COPY OF THE FOREGOING MAILED
this 16 day of March, 2012 to:

Montgomery Lee
Assistant Attorney General
1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the Board


ML:yfl - #2588021