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7 Attorneys for the Arizona State Board of Pharmacy

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

9  
10 In the Matter of

11 **ROBIN O'NELE, Pharm.D**

12 Holder of License No. S014246  
To Practice as a Pharmacist in the State of  
13 Arizona

Board Case No. 17-0003-PHR

**CONSENT AGREEMENT  
AND ORDER FOR PROBATION**

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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.*, Robin O'Nele ("Respondent"),  
18 holder of Pharmacist License Number S014246 in the State of Arizona, and the Board  
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order  
20 ("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 she has a right to a public administrative  
2 hearing concerning this matter at which hearing she 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 her.

11          5.     Respondent understands this Consent Agreement deals with Board  
12 complaint number 4514 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, she may not  
25 revoke her 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 will 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)(20), -1927(A)(1).

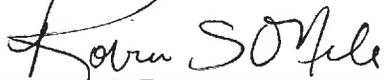
22 13. Respondent agrees that the Board will adopt the following Findings of Fact,  
23 Conclusions of Law and Order.

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1 ACCEPTED AND AGREED BY RESPONDENT

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3 Robin O'Nele, PharmD

Dated: 07/10/16

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5 **FINDINGS OF FACT**

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

8 2. Respondent is the holder of license number S014246 to practice as a  
9 pharmacist in the State of Arizona.

10 3. On or about March 18, 2011, Respondent and the Board entered into a  
11 Consent Agreement and Order for Suspension and Probation as a result of Respondent's  
12 substance abuse issues and her diversion of controlled substances from her place of  
13 employment (Fry's Pharmacy #78).

14 4. Pursuant to the terms of the Consent Agreement and Order, Respondent's  
15 license to practice pharmacy was suspended for six (6) months and she was further  
16 required to enter into a contract with Pharmacists Assisting Pharmacists of Arizona  
17 ("PAPA"). After the suspension, Respondent's license was placed on probation for a  
18 period of five years and as part of the PAPA contract, she was required participate in  
19 random drug screens and 12 step/self-help programs.

20 5. The Consent Agreement also provided that Respondent's failure to comply  
21 with the terms of the Consent Agreement or the PAPA contract could subject Respondent  
22 to further disciplinary action.

23 6. On or about June 2, 2016, the Board received notification from PAPA's  
24 Administrative Director that Respondent's May 31, 2016, random drug screen came back

1 positive for Opiates, specifically Codeine and Morphine. At Respondent's request, the  
2 sample was retested the second test was also positive for Opiates.

3 7. Respondent asserts that the positive test results were due to her taking Tylenol  
4 with codeine that had been prescribed for her son. Specifically, during the late evening of  
5 May 30, 2016, Respondent was experiencing tremendous pain from what she believed to  
6 be a kidney stone and took 2 Tylenol with codeine to alleviate the pain.

7 8. On or about July 4<sup>th</sup> through July 8, 2016, Respondent participated in a one-  
8 week intensive out-patient program at The Meadows.

9 9. Dr. Julian Pickens, a psychologist who is treating Respondent through PAPA,  
10 has opined that he believes a two year extension of Respondent's PAPA contract is  
11 appropriate under the circumstances.

### 12 CONCLUSIONS OF LAW

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

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

17 3. Respondent's conduct, as described in the Findings of Fact, constitutes a  
18 violation of A.R.S. § 32-1968(B)(20) ("Violating a formal order, terms of probation, a  
19 consent agreement or a stipulation issued or entered into by the board or its executive  
20 director pursuant to this chapter.")

### 21 ORDER

22 Based upon the above Findings of Fact and Conclusions of Law, the Board issues  
23 the following Order:  
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1           1.     The **PROBATIONARY STATUS** of Respondent's Pharmacist License  
2 No. S014246 is hereby **EXTENDED**, for an additional **FIVE (5) YEARS** subject to the  
3 following terms and conditions:

4           A.     **Upon execution of this Consent Agreement, Respondent shall**  
5 **immediately sign a new contract with PAPA, which shall extend for the entire**  
6 **term of the five year probation under this Consent Agreement.** Respondent  
7 shall abide by each and every requirement of the new PAPA contract. Failure to  
8 participate in the PAPA program, complete the PAPA program, or to abide by the  
9 PAPA contract's terms is a violation of this Order.

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

17          C.     Respondent shall continue to comply with the terms of her PAPA  
18 contract.

19          D.     Within two (5) years from the execution date of this Consent  
20 Agreement, Respondent shall complete 400 hours of community service approved  
21 by Board staff. Respondent shall ensure that all entities to which she provides  
22 community service verify in writing to the Board the number of hours completed  
23 within 30 days of Respondent completing the community service.

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

4 F. Respondent shall not serve as a preceptor pharmacist or pharmacist  
5 in charge.

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

8 2. Respondent shall pay all necessary fees and complete all continuing  
9 education requirements throughout the term of her probation.

10 3. Throughout the term of Respondent's, Respondent shall personally appear  
11 before the Board when requested to do so by the Board or Board staff.

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

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

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

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

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

3 DATED this 21<sup>st</sup> day of November, 2016.

4

ARIZONA STATE BOARD OF PHARMACY

5

6 (Seal)

7

By:   
KAMLESH GANDHI, Pharm.D  
Executive Director

8

9 ORIGINAL OF THE FORGOING FILED  
10 this 21<sup>st</sup> day of November, 2016, with:

11

Arizona State Board of Pharmacy  
1616 W. Adams  
Phoenix, Arizona 85007

12

13 EXECUTED COPY OF THE FOREGOING MAILED  
BY FIRST-CLASS and CERTIFIED MAIL  
14 this 21<sup>st</sup> day of November, 2016, to:

15

Robin O'Nele  
41220 N. Majesty Way  
Anthem, Arizona 85086  
16 Respondent

17

18 EXECUTED COPY OF THE FOREGOING MAILED  
this 21<sup>st</sup> day of November, 2016, to:

19

Jeanne M. Galvin  
Assistant Attorney General  
1275 W. Washington Street, SGD/LES  
Phoenix, Arizona 85007  
21 Attorneys for the Board

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