

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

1 In the Matter of: Investigation Case Number 05-0028-PHR

2 ROBERT P. HOOPER, R.Ph.)
3 Holder of License No. 14739)
4 For the Practice of Pharmacy)
5 In the State of Arizona,)
Respondent)

CONSENT AGREEMENT AND ORDER FOR PROBATION

CONSENT AGREEMENT

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), ROBERT P. HOOPER, R.Ph.,
11 ("Respondent"), holder of Pharmacist License No. 14739 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 knowingly and voluntarily relinquishes all right to
20 such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial
21 review or any other administrative and/or judicial action, concerning the matters set forth herein.

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

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

25 5. Respondent understands this Consent Agreement deals with Board Investigation
26 Case No. 05-0028-PHR involving allegations of unprofessional conduct against Respondent. The
27 investigation into these allegations against Respondent shall be concluded upon the Board's

1 **A.R.S. § 32-1901.01 (B)(10):** In this chapter, unless the context otherwise requires, for the
2 purposes of disciplining a pharmacist, pharmacy intern or graduate intern, "unprofessional
3 conduct" means the following, whether occurring in this state or elsewhere:

4 Violating a federal or state law or administrative rule relating to marijuana, prescription-only
5 drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when
6 determined by the board or by conviction in a federal or state court.

7 **A.R.S. § 32-1968 (A):** A prescription-only drug shall be dispensed only under one of the
8 following conditions:

- 9 1. By a medical practitioner in conformance with section 32-1921.
- 10 2. On a written prescription order bearing the prescribing medical practitioner's
11 manual signature.
- 12 3. On an electronically transmitted prescription order containing the prescribing
13 medical practitioner's electronic or digital signature that is reduced promptly to
14 writing and filed by the pharmacist.
- 15 4. On a written prescription order generated from electronic media containing the
16 prescribing medical practitioner's electronic or manual signature. A prescription
17 order that contains only an electronic signature must be applied to paper that uses
18 security features that will ensure the prescription order is not subject to any form of
19 copying or alteration.
- 20 5. On an oral prescription order that is reduced promptly to writing and filed by the
21 pharmacist.
- 22 6. By refilling any written, electronically transmitted or oral prescription order if a
23 refill is authorized by the prescriber either in the original prescription order, by an
24 electronically transmitted refill order that is documented promptly and filed by the
25 pharmacist or by an oral refill that is documented promptly and filed by the
26 pharmacist.

27 **A.R.S. § 36-2525 (D):** Except in emergency situations in conformity with subsection E of this
28 section, under the conditions specified in subsections F, G and H of this section or when
dispensed directly by a medical practitioner to an ultimate user, a controlled substance in
schedule II shall not be dispensed without the written prescription order in ink or indelible
pencil or typewritten and manually signed by the medical practitioner. A prescription order for
a schedule II substance shall not be dispensed more than sixty days after the date on which the
prescription order was issued. A prescription order for a schedule II substance shall not be
refilled.

ORDER

29 Based upon the above Findings of Fact and Conclusions of Law, and under the authority
30 granted to the Board, under A.R.S. § § 32-1928, 41-1092.07 (F) (5), and A.A.C. R4-23-122 (C),

31 **IT IS HEREBY ORDERED** that:

1 adoption of this Consent Agreement.

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

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

9 8. All admissions made by the Respondent in this Consent Agreement are made solely for
10 the final disposition of this matter, and any related administrative proceedings or civil litigation involving
11 the Board and Respondent. Therefore, any admissions made by Respondent in this Consent Agreement
12 are not intended for any other use, such as in the context of another regulatory agency's proceedings, or
13 civil or criminal proceedings, whether in the State of Arizona or in any other state or federal court.

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

19 10. Respondent understands that the Consent Agreement shall not become effective unless
20 and until adopted by the Board and signed by its Executive Director.

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

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

27 13. Respondent understands that this Consent Agreement is a public record that may be

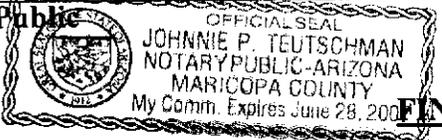
1 publicly disseminated as a formal action of the Board and may be reported as required by law to
2 the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

3 14. Respondent understands that any violation of this Consent Agreement constitutes
4 unprofessional conduct under A.R.S. § 32-1901.01(B)(20) ([i]n this chapter, unless the context otherwise
5 requires, for the purposes of disciplining a pharmacist, pharmacy intern or graduate intern, "unprofessional
6 conduct" means the following, whether occurring in this state or elsewhere: violating a formal order, terms
7 of probation, a consent agreement or a stipulation issued or entered into by the board or its executive
8 director pursuant to this chapter), which shall result in disciplinary action under A.R.S. § 32-1927(A)(1).
9

10 **REVIEWED AND ACCEPTED BY:**

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12 
13 **ROBERT P. HOOPER, R.Ph.**

12 12/22/05
13 **DATE**

14
15 
16 **Notary Public**
17 
18 **OFFICIAL SEAL**
19 **JOHNNIE P. TEUTSCHMAN**
20 **NOTARY PUBLIC-ARIZONA**
21 **MARICOPA COUNTY**
22 **My Comm. Expires June 28, 2008**

17 **FINDINGS OF FACT**

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

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

22 16. The Board possesses jurisdiction over the subject matter and over Respondent as a
23 licensee of the Board.

24 17. Respondent is the holder of Pharmacist License No. 14739 which permits him to engage in
25 the practice of pharmacy in the State of Arizona.

26 18. On October 20, 2003, Respondent entered into a confidential contract with the
27

1 Pharmacists Assisting Pharmacists in Arizona ("PAPA") for drug abuse treatment and rehabilitation as
2 permitted under A.R.S. § 32-1932.01.

3 19. From March 14, 2005, to September 15, 2005, Respondent was employed as a staff
4 pharmacist at the Arizona State Hospital, 2500 E. Van Buren Street, in Phoenix, Arizona.

5 20. On September 22, 2005, the Board office received a copy of a Drug Enforcement
6 Administration ("DEA") Form 106 (Report of Theft or Loss of Controlled Substances) that reported
7 that Respondent had stolen ninety-five (95) tablets of MS Contin 15 mg., which is a Class II
8 Controlled Substance as defined in A.R.S. § 36-2513, and a prescription only drug, as defined in
9 A.R.S. § 32-1901 (76), from the Arizona State Hospital. The DEA Form 106 also reported that
10 Respondent also stole ten (10) tablets of Amituptyline 50 mg. from the Arizona State Hospital, which
11 is a prescription only drug, as defined in A.R.S. § 32-1901 (76).
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14 CONCLUSIONS OF LAW

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16 21. The Board is the duly constituted authority for the regulation and control of the practice
17 of pharmacy in the State of Arizona, under A.R.S. § 32-1901 *et seq.*

18 22. The conduct and circumstances described in paragraphs 17 through 20 above constitute
19 grounds for disciplinary action under A.R.S. § 32-1927 (A)(1) to wit:

20 **A.R.S. § 32-1927 (A)(1):** A pharmacist, pharmacy intern or graduate intern is subject to
21 disciplinary action by the board for any of the following:

22 The board determines that the licensee has committed an act of unprofessional conduct.
23

24 23. The conduct and circumstances described in paragraphs 17 through 20 above constitute
25 unprofessional conduct and violations of A.R.S. § 32-1901.01(B)(10), A.R.S. § 32-1968 (A) and
26 A.R.S. § 36-2525 (D) to wit:
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28

1 35. Respondent shall appear before the Board at a regularly scheduled Board meeting on or
2 after January 25, 2011 to request that the probation imposed by this Order be terminated. Respondent's
3 failure to petition the Board to terminate the **PROBATION** shall extend the **PROBATION** period.

4 **DATED and EFFECTIVE this 25th day of January, 2006**

6 **ARIZONA STATE BOARD OF PHARMACY**

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9 Hal Wand, R.Ph.,
10 Executive Director
Arizona State Board of Pharmacy

11 ORIGINAL of the foregoing, fully executed,
12 filed this 25th day of January, 2006, with:

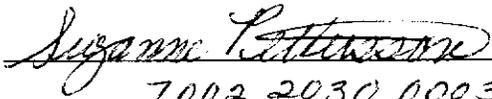
13 Arizona State Board of Pharmacy
14 4425 W. Olive Avenue, #140
Glendale, Arizona 85302

15 Fully Executed Copy of the foregoing sent
16 via Certified US mail this 13th day of
February, 2006 to:

17 ROBERT PRESTON HOOPER, R.Ph.
18 325 W. Pasadena Avenue, #9
Phoenix, AZ 85013

19 Copy of the foregoing mailed
20 this 13th day of February, 2006 to:

21 Roberto Pulver
22 Assistant Attorney General
1275 W. Washington, CIV/LES
23 Phoenix, Arizona 85007
Attorney for the State

24
25 By: 

26 #461523

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