

1 5. Respondent was referred for an assessment by the Board's Physician
2 Health Program ("PHP") contractor, who found that Respondent was unsafe to practice
3 healthcare tasks, and recommended a comprehensive chemical dependency evaluation.
4 Thereafter, Respondent presented to a treatment center for an evaluation. The
5 evaluation was completed on March 4, 2014. Respondent entered treatment on March
6 15, 2014 and was successfully discharged, with staff approval, on May 14, 2014. It was
7 recommended that Respondent is safe to practice as a physician assistant if enrolled in
8 and compliant with the Board's PHP program for a period of five years with the additional
9 requirement of psychotherapy.
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11 6. During the course of the assessment, evaluation and treatment,
12 Respondent admitted to obtaining prescription medication for himself under fictitious
13 names, receiving prescriptions from multiple providers, experimenting with GHB (gamma-
14 Hydroxybutyric acid), buying Percocet and Dilaudid on the street and having a past
15 history of alcohol dependence. Respondent disclosed this information for the purpose of
16 providing full disclosure in order to improve his chances of recovery.
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CONCLUSIONS OF LAW

18 7. The Arizona Regulatory Board of Physician Assistants possesses
19 jurisdiction over the subject matter hereof and over Respondent.
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21 8. The conduct and circumstances described above constitutes unprofessional
22 conduct pursuant to A.R.S. § 32-2501(18)(a) ("[V]iolation of any federal or state law or
23 rule that applies to the performance of health care tasks as a physician assistant.
24 Conviction in any court of competent jurisdiction is conclusive evidence of a violation.") to
25 wit: 21 C.F.R. §1306.05 et al.

1 9. The conduct and circumstances described above constitutes unprofessional
2 conduct pursuant to A.R.S. § 32-2501(18)(d) (“[H]abitual intemperance in the use of
3 alcohol or habitual substance abuse.”).

4 10. The conduct and circumstances described above constitutes unprofessional
5 conduct pursuant to A.R.S. §32-2501(18)(i) (“[P]rescribing or dispensing controlled
6 substances or prescription-only drugs for which the physician assistant is not approved or
7 in excess of the amount authorized pursuant to this chapter.”).

8 11. The conduct and circumstances described above constitutes unprofessional
9 conduct pursuant to A.R.S. §32-2501(18)(q) (“[U]sing controlled substances that have not
10 been prescribed by a physician, physician assistant, dentist or nurse practitioner for use
11 during a prescribed course of treatment.”).

12 12. The conduct and circumstances described above constitutes unprofessional
13 conduct pursuant to A.R.S. §32-2501(18)(s) (“[P]rescribing, dispensing or administering
14 any controlled substance or prescription-only drug for other than accepted therapeutic
15 purposes.”).

16 13. The conduct and circumstances described above constitutes unprofessional
17 conduct pursuant to A.R.S. §32-2501(18)(t) (“[K]nowingly making any written or oral false
18 or fraudulent statement in connection with the performance of health care tasks or when
19 applying for privileges or renewing an application for privileges at a health care
20 institution.”).

21 14. The conduct and circumstances described above constitutes unprofessional
22 conduct pursuant to A.R.S. §32-2501(18)(bb) (“[K]nowingly making a false or misleading
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1 statement on a form required by the board or in written correspondence or attachments
2 furnished to the board.").

3 **ORDER**

4 IT IS HEREBY ORDERED THAT:

5 1. Respondent is issued a Decree of Censure.
6 2. Respondent's license is placed on Probation for a minimum of Five Years
7 and is subject to his continued participation in the Board's PHP and compliance with the
8 following terms and conditions.

9 3. **Co-Signatures.** Respondent shall obtain co-signatures from his
10 supervising physician on all controlled substance prescriptions written to patients with
11 quarterly reports to Board staff.

12 4. **No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or
13 any food or other substance containing poppy seeds or alcohol. Respondent shall not
14 take any illegal drugs or mood altering medications.

15 5. **Relapse Prevention Group.** Respondent shall attend the PHP's relapse
16 prevention group therapy sessions one time per week for the duration of this Order,
17 unless excused by the relapse prevention group facilitator for good cause. Individual
18 relapse therapy may be substituted for one or more of the group therapy sessions, if PHP
19 pre-approves substitution. The relapse prevention group facilitators or individual relapse
20 prevention therapist shall submit monthly reports to the PHP regarding attendance and
21 progress.

22 6. If requested by the PHP, Respondent shall successfully complete a PHP
23 approved 72 hour alcohol/drug awareness education class.

24 7. **12 Step or Self-Help Group Meetings.** If requested by the PHP,
25 Respondent shall attend ninety 12-step meetings or other self-help group meetings

1 appropriate for substance abuse and approved by the PHP, for a period of ninety days.
2 Upon completion of the ninety meetings in ninety days, Respondent shall participate in a
3 12-step recovery program or other self-help program appropriate for substance abuse as
4 recommended by the PHP. Respondent shall attend a minimum of three 12-step or other
5 self-help program meetings per week. Two meetings per month must be Caduceus
6 meetings. Respondent must maintain a log of all self-help meetings.

7 8. **Approved Primary Care Physician.** Respondent shall promptly obtain a
8 primary care physician ("PCP") and shall submit the name of the physician to the PHP in
9 writing for approval. The approved PCP shall be in charge of providing and coordinating
10 Respondent's medical care and treatment. Except in an *Emergency*, Respondent shall
11 obtain medical care and treatment only from the PCP and from health care providers to
12 whom the PCP refers Respondent. Respondent shall promptly provide a copy of this
13 Order to the PCP. Respondent shall also inform all other health care providers who
14 provide medical care or treatment that Respondent is participating in PHP. "*Emergency*"
15 means a serious accident or sudden illness that, if not treated immediately, may result in
16 a long-term medical problem or loss of life.

17 9. **Medication.** All prescriptions for controlled substances shall be
18 approved by the PHP prior to being filled except in an *Emergency*. Controlled
19 substances prescribed and filled in an emergency shall be reported to the PHP within 48
20 hours. Respondent shall take no Medication unless the PCP or other health care provider
21 to whom the PCP refers Respondent prescribes and the PHP approves the Medication.
22 Respondent shall not self-prescribe any Medication. "Medication" means a prescription-
23 only drug, controlled substance, and over-the counter preparation, other than plain
24 aspirin, plain ibuprofen, and plain acetaminophen.

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1 10. Respondent shall immediately obtain a treating psychotherapist approved
2 by the PHP and shall remain in treatment with the psychotherapist until further notice.
3 Respondent shall instruct the psychotherapist to release to the PHP, upon request, all
4 records relating to Respondent's treatment, and to submit quarterly written reports to the
5 PHP regarding diagnosis, prognosis, and recommendations for continuing care and
6 treatment of Respondent. Respondent shall provide the psychotherapist with a copy of
7 this Order. Respondent shall pay the expenses of all the psychotherapy treatment and for
8 the preparation of the quarterly reports.

9 11. **Biological Fluid, Hair and Nail Collection.** Respondent shall submit to
10 random biological fluid, hair and nail testing for the duration of this Order to ensure
11 compliance with PHP. Respondent shall provide the PHP in writing with one telephone
12 number that shall be used to contact Respondent on a 24 hour per day/seven day per
13 week basis to submit to biological fluid, hair and nail testing to ensure compliance with
14 PHP. For the purposes of this section, telephonic notice shall be deemed given at the
15 time a message to appear is left at the contact telephone number provided by
16 Respondent. Respondent authorizes any person or organization conducting tests on the
17 collected samples to provide testing results to the PHP. Respondent shall comply with all
18 requirements for biological fluid, hair and nail collection. Respondent shall pay for all
19 costs for the testing.

20 12. **Out of State Travel and/or Unavailability at Home/Office Telephone**
21 **Number.** Respondent shall provide the PHP with written notice of any plans to travel out
22 of state.

23 13. **Address and Phone Changes, Notice.** Respondent shall immediately
24 notify the Board and the PHP in writing of any change in office or home addresses and
25 telephone numbers.

1 14. Release of Information. Respondent provides full consent for the PHP to
2 discuss the Respondent's case with the Respondent's PCP or any other health care
3 providers to ensure compliance with PHP.

4 15. Direct Relationship. The relationship between the Respondent and the
5 PHP is a direct relationship. Respondent shall not use an attorney or other intermediary
6 to communicate with the PHP on participation and compliance issues.

7 16. Payment for Services. Respondent shall be responsible for all costs,
8 including PHP costs associated with participating in PHP at the time service is rendered,
9 or within 30 days of each invoice sent to the Respondent. An initial deposit of two
10 months PHP fees is due upon entering the program. Failure to pay either the initial PHP
11 deposit or monthly fees 60 days after invoicing will be reported to the Board by the PHP
12 and may result in disciplinary action up to and including license revocation.

13 17. Notice Requirements. Respondent shall immediately provide a copy of
14 this Order to all employers, hospitals and free standing surgery centers where
15 Respondent currently has or in the future gains employment or privileges. Within 30 days
16 of the date of this Order, Respondent shall provide the PHP with a signed statement of
17 compliance with this notification requirement. Respondent is further required to notify, in
18 writing, all employers, hospitals and free standing surgery centers where Respondent
19 currently has or in the future gains employment or privileges, of a chemical dependency
20 relapse or violation of this Order.

21 18. Out-of-State. In the event Respondent resides or practices as a physician
22 assistant in a state other than Arizona, Respondent shall participate in the rehabilitation
23 program sponsored by that state's medical licensing authority or medical society.
24 Respondent shall cause the monitoring state's program to provide written quarterly
25 reports to the PHP regarding Respondent's attendance, participation, and monitoring.

1 The monitoring state's program and Respondent shall immediately notify the PHP if
2 Respondent: a) is non-compliant with any aspect of the monitoring requirements; b)
3 relapses; c) tests positive for controlled substances; d) has low specific gravity urine drug
4 test(s), missed and/or late urine drug tests, or otherwise rejected urine drug tests; and e)
5 is required to undergo any additional treatment.

6 19. The PHP shall immediately notify the Board if Respondent: a) is non-
7 compliant with any aspect of this Order; b) relapses; c) tests positive for controlled
8 substances; d) has low specific gravity urine drug test(s), missed and/or late urine drug
9 tests, or otherwise rejected urine drug tests; and e) is required to undergo any additional
10 treatment.

11 20. **Relapse, Violation.** In the event of chemical dependency relapse by
12 Respondent or Respondent's use of drugs or alcohol in violation of this Order,
13 Respondent shall promptly enter into an Interim Order for Practice Restriction and
14 Consent to the Same that requires, among other things, that Respondent not perform
15 health care tasks until such time as Respondent successfully completes long-term
16 inpatient treatment for chemical dependency designated by the PHP Contractor and
17 obtains affirmative approval from the Board or its Executive Director to return to the
18 performance of health care tasks. Prior to approving Respondent's request to return to
19 the performance of health care tasks, Respondent may be required to submit to
20 witnessed biological fluid collection or undergo any combination of physical examination,
21 psychiatric or psychological evaluation. In no respect shall the terms of this paragraph
22 restrict the Board's authority to initiate and take disciplinary action for violation of this
23 Order.

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2 **CONSENT TO ENTRY OF ORDER**

3 Respondent understands and agrees that:

4 1. Any record prepared in this matter, all investigative materials prepared or
5 received by the Board concerning the allegations, and all related materials and exhibits
6 may be retained in the Board's file pertaining to this matter.

7 2. Respondent has read and understands this Order as set forth herein, and
8 has had the opportunity to discuss this Order with an attorney or has waived the
9 opportunity to discuss this Order with an attorney. Respondent voluntarily enters into this
10 Order and by doing so agrees to abide by all of its terms and conditions.

11 3. By entering into this Order, Respondent freely and voluntarily relinquishes
12 all rights to an administrative hearing on the matters set forth herein, as well as all rights
13 of rehearing, review, reconsideration, appeal, judicial review or any other administrative
14 and/or judicial action, concerning the matters related to the Order.

15 4. The findings contained in the Findings of Fact portion of the Order are
16 conclusive evidence of the facts stated herein and may be used for purposes of
17 determining sanctions in any future disciplinary matter.

18 5. Respondent acknowledges and agrees that upon signing this Order and
19 returning it to the Board's Executive Director, Respondent may not revoke his
20 acceptance of this Order or make any modifications to it. Any modification of this original
21 document is ineffective and void unless mutually approved by the parties in writing.

22 6. Respondent understands that this Order shall not become effective unless
23 and until it is approved by the Board and signed by the Board's Executive Director.
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1 7. Respondent understands and agrees that if the Board does not adopt this
2 Order, he will not assert in any future proceedings that the Board's consideration of this
3 Order constitutes bias, prejudice, prejudgment, or other similar defense.

4 8. Respondent understands that this Order is a public record that may be
5 publicly disseminated as a formal action of the Board and will be reported to the National
6 Practitioner's Data Bank and posted on the Board's web site as a disciplinary action.

7 9. Respondent understands that this Order does not alleviate his
8 responsibility to comply with the applicable license-renewal statutes and rules. If this
9 Order remains in effect at the time Respondent's Physician Assistant license comes up
10 for renewal, he must renew his license if Respondent wishes to retain his license. If
11 Respondent elects not to renew his license as prescribed by statute and rule,
12 Respondent's license will not expire but rather, by operation of law (A.R.S. § 32-3202),
13 become suspended until the Board takes final action in this matter. Once the Board
14 takes final action, in order for Respondent to be licensed in the future, he must submit a
15 new application for licensure and meet all of the requirements set forth in the statutes
16 and rules at that time.

17 10. Respondent understands that any violation of this Order constitutes
18 unprofessional conduct under A.R.S. § 32-2501(18)(dd) ("[V]iolating a formal order,
19 probation, consent agreement or stipulation issued or entered into by the board or its
20 executive director.").

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24 _____
Steven W. Carbonniere, P.A.

DATED: 11/24/14

1 EXECUTED COPY of the foregoing mailed
2 this 11th day of December, 2014 to:

3 Steven W. Carbonniere, P.A.
4 Address of Record

5 Greenberg & Sucher, PC
6 Address of Record

7 ORIGINAL of the foregoing filed
8 this 11th day of December, 2014 with:

9 Arizona Regulatory Board
10 of Physician Assistants
11 9545 E. Doubletree Ranch Road
12 Scottsdale, AZ 85258

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14 Mary Parker
15 Board Staff

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