

1 13. In October, 2014, RN reported to the Nursing Board that he had completed the
2 12 required treatment sessions with Licensee and that he had called and emailed Licensee many
3 times in an effort to get the needed report from Licensee, but that he had not received a
4 response from Licensee. Nursing Board subsequently emailed Licensee and left him a
5 voicemail message regarding the needed documentation.

6 14. During a December, 2015, review of RN's eligibility for possible termination of
7 probation, the Nursing Board determined that no quarterly reports or completion letter had ever
8 been received from Licensee. The Nursing Board subsequently made numerous attempts to
9 obtain the required documentation from Licensee, including sending Licensee a subpoena for
10 RN's records.

11 15. On February 29, 2016, Nursing Board legal counsel contacted Licensee by
12 phone and emphasized the importance of providing RN's records, as Licensee's tardiness was
13 potentially harming RN by causing a delay in the termination of his probation. Licensee stated
14 that he would comply with the records request, but did not do so. The Nursing Board
15 subsequently filed RFI 16-12 against Licensee.

16 16. After receiving notice of RFI 16-12, Licensee provided a written response to the
17 Board acknowledging his failure to provide the required documentation to the Nursing Board
18 and identifying a number of contributing factors, including the irretrievable loss of his
19 electronic records for RN due to the failure of his digital storage devices. In May, 2016,
20 Licensee provided the Nursing Board with documents including a note regarding Licensee's
21 initial intake session with RN, the dates of Licensee's subsequent sessions with RN, and a
22 statement regarding RN's completion of treatment.

23 17. Licensee has provided evidence of actions he has taken to address the issues that
24 contributed to his failure to provide the Nursing Board with the required documentation,
25 including addressing certain health conditions, voluntarily refraining from the treatment of
26 private practice clients, and entering into a business agreement with a consultant to reconfigure
27 his electronic recordkeeping system and prevent the future loss of his electronic records.
28 Licensee has also reimbursed RN for all monies paid for Licensee's services to RN.

1 22. **CONTINUING EDUCATION:** In addition to the continuing education
2 requirements that are required by rule for license renewal, Licensee shall complete an
3 additional twenty-four hours of continuing education courses to address the issues raised in
4 RFI 16-12 (twelve hours addressing professional ethics and twelve hours addressing record
5 keeping, to include the topic of record retention). Continuing education courses may be
6 completed in-person, or through distance education. Respondent shall submit the proposed
7 continuing education courses to the Board's Executive Director for approval prior to taking a
8 course. Within fourteen (14) days of completing the coursework, Licensee shall submit proof of
9 completion of the courses to the Board.

10 23. **PRIOR APPROVAL BEFORE RESUMING PRIVATE PRACTICE:** Prior
11 to resuming any private practice of psychology, Licensee must petition to appear before the
12 Board, to request the Board's approval to do so. Licensee shall not resume providing private
13 practice psychological services until obtaining the Board's prior approval of the same.

14 24. **TERMINATION OF CONSENT AGREEMENT:** At the end of 12 months,
15 and if all other requirements have been fulfilled, unless otherwise ordered by the Board,
16 Licensee may petition the Board, in writing, and request termination from this Consent
17 Agreement. If the Board determines that Licensee has not complied with all the requirements of
18 this Consent Agreement, the Board may either (a) continue the Consent Agreement for an
19 additional six months or longer as specified by the Board, or (b) institute proceedings for
20 noncompliance with this Consent Agreement, which may result in the suspension, revocation or
21 other disciplinary and/or remedial action.

22 25. **CONTINUED APPLICATION OF TERMS:** If, between the effective date of
23 this Consent Agreement and the termination of the Consent Agreement by the Board, Licensee
24 fails to renew his license while under this Consent Agreement and subsequently applies for a
25 license, the remaining terms of this Consent Agreement shall be imposed if the application for
26 licensure is granted.

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1 26. **TOLLING FOR PERIODS OF NON-PRACTICE:** If Licensee for any
2 reason stops practicing psychology in Arizona for more than 30 days or leaves Arizona to
3 reside or practice psychology outside Arizona, the periods of temporary or permanent residency
4 or practice outside Arizona or the non-practice within Arizona do not apply to reduce the
5 duration of this Consent Agreement Licensee shall notify the Board in writing within five days
6 of the dates of departure and return or the dates of non-practice in Arizona.

7 27. **EFFECTIVE DATE:** Licensee understands that the foregoing Consent
8 Agreement shall not become effective unless and until adopted by the Board of Psychologist
9 Examiners and executed on behalf of the Board. Any modification to this original document is
10 ineffective and void unless mutually approved by the parties in writing.

11 28. **CONSIDERATION IN FUTURE ACTIONS:** Licensee understands that this
12 Consent Agreement, or any part thereof, may be considered in any future disciplinary action
13 against him.

14 29. **FINAL RESOLUTION:** This Consent Agreement constitutes a final resolution
15 of this disciplinary matter but does not constitute a dismissal or resolution of other matters
16 currently pending before the Board, if any, and does not constitute any waiver, expressed or
17 implied, of the Board's statutory authority or jurisdiction regarding any other pending or future
18 investigations, actions or proceedings. Further, this Consent Agreement does not preclude any
19 other agency, subdivision or officer of this State from instituting other civil or criminal
20 proceedings with respect to the conduct that is the subject of this Consent Agreement.

21 30. **TIME:** Time is of the essence with regard to this Consent Agreement.

22 31. **COSTS:** The Licensee shall be responsible for all costs incurred as a result of
23 her compliance with this Consent Agreement.

24 32. **NON-COMPLIANCE:** If Licensee fails to comply with the terms of this
25 Consent Agreement, the Board shall properly institute proceedings for noncompliance with this
26 Order, which may result in suspension, revocation, or other disciplinary and/or remedial
27 actions. Violation of this Consent Agreement is a violation of A.R.S. § 32-2061(15)(aa), which
28 is "violating a formal board order, consent agreement, term of probation or stipulated
agreement."

1 33. PUBLIC RECORD: This Consent Agreement is a public record that may be
2 publicly disseminated as a formal action of the Board and shall be reported to the National
3 Practitioner Data Bank.

4 Dated this 26th day of October, 2016.

5
6 Donald Durham, Ph.D.
7 Donald Durham, Ph.D.
8 Licensee

5
6 Cindy Olvey, Psy.D.
7 Cindy Olvey, Psy.D.
8 Executive Director

9 ORIGINAL of the foregoing filed this
10 26th day of October, 2016, with:

11 The Arizona State Board of Psychologist Examiners
12 1400 West Washington, Suite 240
13 Phoenix, Arizona 85007

14 COPY of the foregoing mailed by Certified Mail
15 No. 7009 2250 0002 7170 6561 this
26th day of October, 2016, to:

16 Donald Durham, Ph.D.
17 Address of Record

18 Copy of the foregoing mailed this
19 26th day of October, 2016, to:

20 Faren Akins
21 Akins Law Firm
22 7702 E. Doubletree Ranch Rd., Ste. 300
Scottsdale, AZ 85258-2132

23 Copy of the foregoing mailed by interagency mail this
24 26th day of October, 2016, to:

25 Jeanne M. Galvin
26 Office of the Arizona Attorney General
27 SGD/LES
1275 W. Washington
Phoenix, AZ 85007

28 By: Hesler Pao

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ORIGINAL of the foregoing filed this
6th day of April, 2018, with:
The Arizona State Board of Psychologist Examiners
1740 West Adams St., Suite 3403
Phoenix, Arizona 85007

COPY of the foregoing mailed this
6th day of April 2018, to:
Donald Durham, Ph.D.
Address of Record

COPY of the foregoing mailed by interagency mail this
6th day of April 2018, to:
Jeanne Galvin, Esq.
Assistant Attorney General
Arizona Attorney General's Office
SGD/LES
15 South 15th Ave.
Phoenix, Arizona 85007

By: Heather Broadus