

1 **BEFORE THE ARIZONA STATE BOARD**  
2 **OF PSYCHOLOGIST EXAMINERS**

3 **IN THE MATTER OF:**

CASE NO. 2016-10

4 **BARRIE WAGNER, Psy.D.**

5 Holder of License No. 3269  
6 For the Practice of Psychology  
7 In the State of Arizona,

8 Respondent

**INTERIM CONSENT AGREEMENT  
and ORDER FOR VOLUNTARY  
SUSPENSION OF LICENSE AND  
FITNESS FOR DUTY  
EXAMINATIONS**

9 In the interest of a prompt and judicious settlement of the above-captioned matter  
10 before the Arizona Board of Psychologist Examiners ("Board") and consistent with  
11 public interest, statutory requirements and responsibilities of the Board, and pursuant to  
12 A.R.S. § 32-2061 *et seq.* and A.R.S. §41-1092.07(F)(5), Barrie Wagner Psy.D.  
13 ("Respondent"), holder of License No. 3269 and the Board enter into this Interim  
14 Consent Agreement and Order for Voluntary Suspension of License and Fitness for Duty  
15 Examinations ("Interim Consent Agreement and Order") as an interim resolution of this  
16 matter until such time a final order is entered by the Board.

17 On March 10, 2016, the Board held a public meeting (telephonic) to discuss the  
18 above-captioned matter. Respondent was properly noticed and appeared personally and  
19 with legal counsel, Faren Akins (telephonically). At the conclusion of the Board's  
20 consideration of the issues, the parties agreed to enter into this Interim Consent  
21 Agreement until the conclusion of final administrative proceedings.

22 **JURISDICTION**

23 1. The Arizona State Board of Psychologist Examiners ("Board") is the state  
24 agency authorized pursuant to A.R.S. § 32-2061 *et seq.*, and the rules promulgated  
25 thereunder, found in the Arizona Administrative Code ("A.A.C." or "rules") at R4-26-

26

1 101 *et seq.*, to regulate and control the licensing of psychologists and behavior analysts in  
2 the State of Arizona.

3 2. Respondent holds a license to practice psychology in the State of Arizona,  
4 License No. 3269.

5 **INTERIM CONSENT AGREEMENT**

6 Respondent understands and agrees that:

7 1. The Board has jurisdiction over Respondent and the subject matter pursuant  
8 to A.R.S. § 32-2061 *et seq.*

9 2. Respondent has the right to consult with an attorney prior to entering into  
10 this Interim Consent Agreement and Order.

11 3. Respondent has a right to a public hearing concerning this case. She further  
12 acknowledges that at such formal hearing she could present evidence and cross-examine  
13 witnesses. Respondent irrevocably waives her right to such a hearing as it relates to this  
14 Interim Consent Agreement and Order.

15 4. Respondent irrevocably waives any right to rehearing or review or to any  
16 judicial review or any other appeal of this Interim Consent Agreement and Order.

17 5. This Interim Consent Agreement and Order shall be subject to the approval  
18 of the Board and shall be effective only when signed by the Executive Director. In the  
19 event that the Board does not approve this Interim Consent Agreement and Order, it is  
20 withdrawn and shall be of no evidentiary value and shall not be relied upon nor  
21 introduced in any action by any party, except that the parties agree that should the Board  
22 reject this Interim Consent Agreement and Order and this case proceeds to hearing,  
23 Respondent shall assert no claim that the Board was prejudiced by its review and  
24 discussion of this document or any records relating thereto.

25 6. The Interim Consent Agreement and Order, once approved by the Board  
26 and signed by the Respondent, shall constitute a public record which may be

1 disseminated as a formal action of the Board and shall be reported to the National  
2 Practitioner Data Bank.

3 The following Interim Findings of Fact are no more and no less than allegations  
4 which have not been proven. By signing this Interim Consent Agreement and Order,  
5 Respondent has not admitted to the allegations but does acknowledge that if this matter  
6 were to proceed to a formal hearing the Board would offer evidence to the trier of fact in  
7 support of the allegations.

8 **INTERIM FINDINGS OF FACT**

9 1. Respondent is a licensed psychologist in the State of Arizona, license  
10 number 3269. She has been licensed in Arizona since August of 1998.

11 2. Evidence obtained by the Board indicates that Respondent may suffer from  
12 a mental, psychological and/or physiological condition that impedes her ability to safely  
13 practice psychology, the specifics of which are maintained in the Board file.

14 **INTERIM CONCLUSIONS OF LAW**

15 The Board has personal and subject matter jurisdiction in this case under A.R.S. §  
16 32-2061 *et seq.*, and is authorized to discipline licensees who engage in unprofessional  
17 conduct (A.R.S. §§32-2063-2081) and to require a licensee to undergo any combination  
18 of mental, physical or psychological competence examinations at the licensee's expense.  
19 A.R.S. §32-2081(G).

20 The conduct and circumstances alleged in the Interim Findings of Fact constitute a  
21 violation of A.R.S. § 32-2061(15)(l), practicing psychology while impaired or  
22 incapacitated to the extent and in a manner that jeopardizes the welfare of the client or  
23 patient or renders the psychological services provided ineffective.

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1 other drugs. [A.R.S. 32-2081(G)] This evaluation shall be completed within ninety (90)  
2 days of the effective date of this Order.

3           **6. Selection of Psychiatric Evaluator:** Within fifteen (15) days of the date  
4 of this Order, Respondent shall make arrangements with the following psychiatrist to  
5 conduct the psychiatric evaluation:  
6

7                   Payam Sadr, M.D.  
8                   8130 E. Cactus Road, Suite 520  
9                   Scottsdale, AZ 85260  
                    480-261-5015

10           Respondent shall notify the Board staff in writing of the date(s) that she is  
11 scheduled to undergo the psychiatric evaluation.

12           Respondent shall ensure that the psychiatrist submits his final report to the Board  
13 office as soon as it is complete, but no more than 30 days from the date of the  
14 evaluation. **Respondent shall present this Consent Agreement and Order to the**  
15 **psychiatrist prior to the date of the full psychiatric evaluation, or at the time of the**  
16 **evaluation, as directed by the psychiatrist.**

17  
18           **7. Psychological Evaluation.** Respondent shall obtain an independent  
19 psychological evaluation relating to any possible impairment issues resulting from mental  
20 health or other conditions, including whether Respondent is fit to practice psychology  
21 and whether Respondent has any substance abuse issues, including alcohol or other  
22 drugs. [A.R.S. 32-2081(G)] This evaluation shall be completed within ninety (90) days of  
23 the effective date of this Consent Agreement and Order.  
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1           8.     **Selection of Psychological Evaluator.** Within fifteen (15) days of the date  
2 of this Consent Agreement and Order, Respondent shall make arrangements with one of  
3 the following psychologists to conduct the psychological evaluation:

4                     Gary Perrin, Ph.D.  
5                     7624 N. La Cholla Blvd  
6                     Tucson, AZ 85741  
7                     (520) 797-6691

8                     Paul Kaufman, Ph.D.  
9                     1845 W. Orange Grove Road, Suite 111  
10                    Tucson, AZ 85704  
11                    520-621-5066

12                    Joel Dvoskin, Ph.D.  
13                    668 E. Weckl Place  
14                    Tucson, AZ 85704  
15                    520-906-0366

16           Within three (3) days of her selection of an evaluator, Respondent shall notify the  
17 Board staff in writing of her evaluator of choice and provide the staff with the date(s) that  
18 she is scheduled to undergo the psychological evaluation.

19           Respondent shall ensure that the evaluator submits his final report to the Board  
20 office as soon as it is complete, but no more than 30 days from the date of the  
21 evaluation. **Respondent shall present this Consent Agreement and Order to the**  
22 **evaluator prior to the date of the psychological evaluation, or at the time of the**  
23 **evaluation, as directed by the psychologist.**

24           9.     **Physical Examination:** Respondent shall obtain an independent full  
25 physical examination within ninety (90) days of the effective date of this Consent  
26 Agreement and Order. (A.R.S. § 32-2081(G))

1 Respondent shall seek *preapproval* from the Board's Executive Director of the  
2 physician (Medical Doctor or Doctor of Osteopathy) who Respondent seeks to perform  
3 the required examination. Within three (3) days of her selection of a physician,  
4 Respondent shall notify the Board staff in writing of her physician of choice and provide  
5 the staff with the date(s) that she is scheduled to undergo the physical examination.  
6

7 Respondent shall ensure that the physician submits his/her final report to the  
8 Board office as soon as it is complete, but no more than 30 days from the date of the  
9 examination. The final report shall include the physician's opinion as to the  
10 appropriateness of Respondent practicing psychology and whether she has a physical  
11 condition(s) that would impede her ability to practice safely. **Respondent shall present**  
12 **this Consent Agreement and Order to the physician prior to the date of the full**  
13 **physical examination, or at the time of the examination, as directed by the**  
14 **physician.**  
15  
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17 10. **Communication with Evaluator:** Because Respondent is undergoing the  
18 psychiatric, psychological and full physical evaluations/examinations under Board  
19 Order, she shall instruct any attorney retained on her behalf not to contact the  
20 evaluators/examiners. Any questions or concerns must be addressed to Board staff.  
21

22 11. **Client:** The evaluators are conducting the psychiatric, psychological and  
23 physical evaluations/examinations solely for the benefit of the Board, are not treating  
24 Respondent as a client or patient, and there is no doctor/patient relationship between the  
25 evaluators/examiners and Respondent.  
26



1           12.   **Costs:** All costs associated with the compliance with this Order and  
2 completion of the evaluations/examinations are the sole responsibility of Respondent  
3 pursuant to A.R.S. §32-2081(G).  
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5           13.   **Releases:** Respondent shall sign, authorize and complete any and all  
6 releases necessary as requested by the evaluators/examiners to help ensure a complete  
7 and thorough evaluation/examination and to ensure the reports are properly released to  
8 the Board as set forth in paragraphs 1 and 2 of this Consent Agreement and Order.  
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10          14.   **Final Written Report:** The Board authorizes the Executive Director to  
11 contact any and all evaluators/examiners to request the final reports in writing for the  
12 Board's review. All results of the psychiatric, psychological and full physical  
13 evaluations/examinations are the sole property of the Board, and shall be released to the  
14 Board prior to release to the Respondent or any attorney retained on her behalf.  
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16          15.   **Effective Date:** This Order shall be effective on the date of entry below.  
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18          16.   **Time Extension:** Respondent may contact the Board, in writing, to  
19 request a one-time extension of 30 days, for the completion of the fitness for duty  
20 evaluations/examinations, to be approved by the Board's Executive Director.

21          17.   **Failure to Comply:** Failure to timely comply with this Consent  
22 Agreement and Order may constitute unprofessional conduct and result in disciplinary  
23 action against the Respondent by the Board.  
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25          18.   The required evaluations/examinations set forth in paragraphs 5-9 shall be  
26 completed no later than 90 days from the effective date of this Interim Consent



1 Agreement and Order. Respondent is responsible for all costs associated with the  
2 evaluations/examinations. Respondent shall cause the original of the  
3 evaluation/examination reports to be sent directly to the Board within 30 days of the  
4 completion of the evaluation/examination.  
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6 19. Respondent's license to practice psychology shall not be fully restored  
7 unless and until the Board determines in its sole discretion that Respondent may safely  
8 engage in the practice of psychology. Respondent understands that should the Board lift  
9 the suspension of her license, the Board may order that she return to practice on a limited  
10 basis and/or under certain terms and conditions.  
11

12 20. Respondent's license to practice psychology expires on April 30, 2017.  
13 Pursuant to the terms of this Interim Consent Agreement and Order, Respondent's license  
14 remains indefinitely suspended unless and until otherwise ordered by this Board. In the  
15 unlikely event there is no final order entered in this matter at time Respondent's license  
16 expires and Respondent fails to timely submit an application for renewal, her license  
17 remains suspended pursuant to the terms of this Order. If Respondent seeks timely  
18 renewal of her license and the Board grants her application for renewal, the license shall  
19 automatically be placed on indefinite suspension until such time the Board orders  
20 otherwise. The Board reserves the right to take other administrative action against  
21 Respondent's application for renewal, including denial of the same, in the event  
22 circumstances arise that justify such denial.  
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1           21. Respondent has read and understands this Interim Consent Agreement and  
2 Order as set forth herein, and has had the opportunity to discuss this Interim Consent  
3 Agreement and Order with an attorney or has waived the opportunity to do so.

4           22. Respondent understands that this Interim Consent Agreement and Order, or  
5 any part thereof, may be considered in any future disciplinary action against her.

6           23. Time is of the essence with regard to this agreement.

7           24. If Respondent fails to comply with the terms of this Interim Consent  
8 Agreement and Order, the Board shall properly institute proceedings for noncompliance  
9 with this Interim Consent Agreement and Order, which may result in suspension,  
10 revocation, or other disciplinary and/or remedial actions. Respondent agrees that any  
11 violation of this Interim Consent Agreement and Order is a violation of A.R.S. § 32-  
12 2061(15)(aa), which is violating a formal board order or consent agreement.

13           25. Respondent understands that this Interim Consent Agreement and Order  
14 does not constitute a final resolution of this or other matters currently pending before the  
15 Board, if any, and does not constitute any waiver, express or implied, of the Board's  
16 statutory authority or jurisdiction regarding any other pending or future investigation,  
17 action or proceeding. Respondent also understands that acceptance of this Interim  
18 Consent Agreement and Order does not preclude any other agency, subdivision or officer  
19 of this state from instituting other civil or criminal proceedings with respect to the  
20 conduct that is the subject of this Interim Consent Agreement and Order.

21           26. Respondent understands that the foregoing Interim Consent Agreement and  
22 Order becomes effective upon signature of the Executive Director on behalf of the Board.  
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1 Any modification to this original document is ineffective and void unless mutually  
2 approved by the parties in writing.

3 27. Respondent understands that this Interim Consent Agreement and Order for  
4 Voluntary Suspension and Fitness for Duty Examinations is a public record that may be  
5 publicly disseminated as a formal action of the Board and shall be reported to the  
6 National Practitioner Data Bank.  
7

8 DATED this 16<sup>th</sup> day of March, 2016.

9  
10 Barrie R. Wagner  
11 Barrie Wagner, Psy.D.  
12 Respondent

Cindy Olvey  
Cindy Olvey  
Executive Director  
Arizona Board of Psychologist Examiners

13  
14 ORIGINAL filed  
15 this 17<sup>th</sup> day of March, 2016 to:

16 Arizona State Board of  
17 Psychologist Examiners  
18 1400 W. Washington, Suite 235  
Phoenix, Arizona 85007

19 COPY of the foregoing mailed  
20 this 17<sup>th</sup> day of March, 2016 to:

21  
22 Barrie Wagner, Psy.D.  
Address of Record

23 COPY of the foregoing emailed  
24 this 17<sup>th</sup> day of March, 2016 to:

25 Faren Akins  
Akins Law Firm  
26 Email address of Record

1 COPY of the foregoing mailed this  
2 17<sup>th</sup> day of March, 2016 to:

3 Faren Akins  
4 Akins Law Firm  
5 7702 E. Doubletree Ranch Road, Ste. 300  
6 Scottsdale, AZ 85258-2132

7 COPY of the foregoing sent via interagency mail this  
8 17<sup>th</sup> day of March, 2016 to:

9 Jeanne M. Galvin  
10 Assistant Attorney General  
11 1275 W. Washington Street SGD/LES  
12 Phoenix, Arizona 85007  
13 Attorney for the State of Arizona

14 By:   
15 JMG/ah - 4948796

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