

Received By:
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Arizona State Board of Pharmacy

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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 **BAILEY MCCOMB,**
12 Holder of License No. S019903
As a Pharmacist
13 In the State of Arizona.

Board Case No. 15-0021-PHR

**CONSENT AGREEMENT
AND ORDER FOR SUSPENSION
AND 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.*, Bailey McComb
18 ("Respondent"), holder of Pharmacist License No. S019903 in the State of Arizona and
19 the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and
20 Order ("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 No. 4410 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 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 may 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) and A.R.S. § - 1927(A) (1).

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

24 ...

25 ...

26 ...

1 ACCEPTED AND AGREED BY RESPONDENT

2 Bailey McComb
3 _____

Dated: 5.19.15

4 Bailey McComb

5 Subscribed and sworn to before me in the County of Maricopa, State of Arizona
6 this 19 day of May, 2015, by Bailey McComb.

7 Tiffany Poetsch
8 NOTARY PUBLIC



9 My Commission expires: January 09, 2019
10

11 **FINDINGS OF FACT**

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

14 2. Respondent is the holder of license number S019903 which allows her to
15 practice as a pharmacist in the State of Arizona.

16 3. The Board possesses jurisdiction over the subject matter and over
17 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

18 4. Between January 1, 2014 and March 3, 2015 Respondent was employed as
19 a pharmacist at Safeway Pharmacy # 1733 ("Pharmacy"). On March 6, 2015 Pharmacy
20 personnel reported to law enforcement that they suspected Respondent was responsible
21 for the pilferage of an unknown quantity of varying strengths of controlled substances.
22 Show Low Police Department personnel initiated an investigation and interviewed
23 Respondent on March 11, 2015. In the interview Respondent admitted stealing over
24 10,000 doses of oxycodone, over 500 doses of hydrocodone and over 500 doses of
25 amphetamine salts valued at over \$15,000.00. In facilitating this activity Respondent
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1 created fictitious patient names, created fictitious prescriptions and entered false
2 information into Pharmacy records to compensate for removing the controlled substances
3 from the Pharmacy.

4 **CONCLUSIONS OF LAW**

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

7 2. The Board may discipline a pharmacist who has engaged in unprofessional
8 conduct. A.R.S. § 32-1927(A) (1).

9 3. The conduct and circumstances described above constitutes unprofessional
10 conduct pursuant to A.R.S. § 32-1901.01 (B) (2), (10) and (19).

11 **ORDER**

12 Based upon the above Findings of Fact and Conclusions of Law,

13 IT IS HEREBY ORDERED THAT Pharmacist License No. S019903, which was
14 issued to Respondent for the practice of Pharmacy in the State of Arizona, is hereby
15 placed on **SUSPENSION** for a period of six (6) months beginning the effective date of
16 this Consent Agreement. Thereafter, Respondent's license shall be placed on
17 **PROBATION** for a period of at least four (4) years and six (6) months from the final
18 date of suspension. Respondent's disciplinary period under the suspension and probation
19 shall be not more than five (5) years, unless Respondent affirmatively fails to petition the
20 Board to terminate the probation in accordance with paragraph 14 below.

21 The **SUSPENSION** and **PROBATION** are subject to the following conditions:

22 1. Respondent shall return his pharmacist license to the Board for the period
23 of suspension.

24 2. Respondent signed a Pharmacists Assisting Pharmacists of Arizona
25 ("PAPA") contract on or before the effective date of this Consent Agreement.
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1 Respondent's PAPA contract shall extend for the entire term of his suspension and
2 probation under this Consent Agreement. Respondent shall abide by each and every
3 requirement of the PAPA contract. Failure to participate in the PAPA program, complete
4 the PAPA program or to abide by the PAPA contract's terms is a violation of this Order.

5 3. Within five (5) years from the execution date of this Consent Agreement,
6 Respondent shall complete 400 hours of community service approved by Board staff.
7 Respondent shall ensure that all entities to which she provides community service verify
8 in writing to the Board the number of hours completed within 30 days of Respondent
9 completing the community service.

10 4. Respondent shall pay all necessary fees and complete all Continuing
11 Education requirements throughout the term of her probation to maintain Pharmacist
12 License No. S019903.

13 5. Respondent shall furnish all pharmacy employers with a copy of this Board
14 Order throughout the term of her probation. Respondent shall ensure that all pharmacy
15 employers submit to the Board a written acknowledgement that they have received a
16 copy of this Consent Agreement within ten (10) days of entering into an employment
17 relationship with Respondent.

18 6. Respondent shall not serve as a preceptor pharmacist or pharmacist in
19 charge throughout the term of her probation.

20 7. Respondent shall advise the Board immediately of any change in pharmacy
21 employment status throughout the term of her probation.

22 8. Respondent shall furnish the Board with a list of all jurisdictions in which
23 she maintains or has maintained licensure in the profession of pharmacy along with the
24 registration numbers of said licenses.

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1 9. Respondent shall obey all federal and state laws and rules governing the
2 practice of pharmacy.

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

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

9 12. Respondent shall pay all costs associated with complying with this Consent
10 Agreement, including all expenses associated with PAPA.

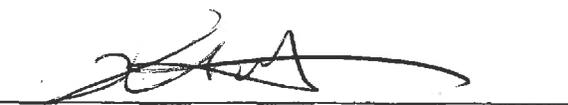
11 13. If Respondent violates this order in any way or fails to fulfill the
12 requirements of this order, the Board, after giving the respondent notice and the
13 opportunity to be heard, may revoke, suspend or take other disciplinary actions against
14 the Respondent's license. The issue at such a hearing will be limited solely to whether
15 this order has been violated.

16 14. Respondent shall appear before the Board at a regularly scheduled Board
17 meeting five years after the effective date of this Order to request that the probation
18 imposed by this order be terminated. Respondent's failure to petition the Board to
19 terminate the probation shall extend the probation period.

20 DATED this 27 day of May, 2015.

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22
23 (Seal)

ARIZONA STATE BOARD OF PHARMACY

24
25 By: 

KAMLESH GANDHI
EXECUTIVE DIRECTOR

1 ORIGINAL OF THE FORGOING FILED
this 27 day of May, 2015, with:

2 Arizona State Board of Pharmacy
3 1616 W. Adams Street
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL

6 this 27 day of May, 2015, to:

7 Bailey McComb
8 10950 County Road 23
9 Cortez, Colorado 81321
10 Respondent

11 EXECUTED COPY OF THE FOREGOING MAILED
12 this 27 day of May, 2015, to:

13 Montgomery Lee
14 Assistant Attorney General
15 1275 W. Washington Street, CIV/LES
16 Phoenix, Arizona 85007
17 Attorney for the Board

18 _____
19 Doc # 4411141
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