

2016 OCT -6 PM 2: 33

1 MARK BRNOVICH
2 Attorney General
3 Firm State Bar No. 14000

4 JEANNE M. GALVIN
5 Assistant Attorney General
6 State Bar No. 015072
7 1275 W. Washington, CIV/LES
8 Phoenix, Arizona 85007-2997
9 Tel: (602) 542-7983
10 Fax: (602) 364-3202

11 Attorneys for the Arizona State Board of Pharmacy

12 **BEFORE THE ARIZONA BOARD OF PHARMACY**

13 IN THE MATTER OF:

14 **LINDSEY DALZELL-THAI**

15 Holder of License No. S013641
16 for the Practice of Pharmacy
17 in the State of Arizona,

18 Respondent.

Board Case No. 16-0014-PHR

**CONSENT AGREEMENT AND
ORDER FOR PROBATION**

19 In the interest of a prompt and judicious settlement of this case, consistent with the
20 public interest, statutory requirements and the responsibilities of the Arizona State Board
21 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Lindsey Dalzell-Thai
22 ("Respondent"), holder of Pharmacist License Number S013641 in the State of Arizona,
23 and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law
24 and Order ("Consent Agreement") as a final disposition of this matter.
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

RECITALS

1. Respondent has read and understands this Consent Agreement and has had the opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to discuss this Consent Agreement with an attorney.

2. Respondent understands that she has a right to a public administrative hearing concerning this matter at which hearing she could present evidence and cross examine witnesses. By entering into this Consent Agreement, Respondent knowingly and voluntarily relinquishes all right to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters set forth herein.

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

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

5. Respondent understands this Consent Agreement deals with Board complaint number 4449 involving allegations of unprofessional conduct against Respondent. The investigation into these allegations against Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

6. Respondent understands that this Consent Agreement does not constitute a dismissal or resolution of any other matters currently pending before the Board, if any,

1 and does not constitute any waiver, express or implied, of the Board's statutory authority
2 or jurisdiction regarding any other pending or future investigation, action or proceeding.

3
4 7. Respondent also understands that acceptance of this Consent Agreement
5 does not preclude any other agency, subdivision, or officer of this State from instituting
6 any other civil or criminal proceedings with respect to the conduct that is the subject of
7 this Consent Agreement.

8
9 8. Respondent acknowledges and agrees that, upon signing this Consent
10 Agreement and returning this document to the Board's Executive Director, she may not
11 revoke her acceptance of the Consent Agreement or make any modifications to the
12 document regardless of whether the Consent Agreement has been signed by the Executive
13 Director. Any modification to this original document is ineffective and void unless
14 mutually agreed by the parties in writing.

15
16 9. This Consent Agreement is subject to the approval of the Board and is
17 effective only when accepted by the Board and signed by the Executive Director. In the
18 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
19 be of no evidentiary value and shall not be relied upon nor introduced in any action by
20 any party, except that the parties agree that should the Board reject this Consent
21 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
22 Board was prejudiced by its review and discussion of this document or any records
23 relating thereto.
24
25
26

1 3. During all relevant times, Respondent was employed as a pharmacist by
2 Walgreens Store #6535 located at 2420 E. Baseline Road, Phoenix, AZ 85042.

3
4 4. On September 9, 2015, Walgreens Asset Protection Manager, Mr. Duane
5 Fletcher interviewed Respondent regarding her expired immunization license. During the
6 course of the interview, a bag of pills fell on the floor from Respondent's pocket. In
7 response to a question from Mr. Fletcher, Respondent reported that the pills were
8 Alprazolam and that they belonged to her mother, for whom she was the caregiver.
9 Respondent was suspended immediately pending further investigation.

10
11 5. An audit was performed immediately of on-hand Alprazolam and it was
12 determined that there was a shortage.

13
14 6. Based upon the results of the audit, Respondent was interviewed again on
15 September 11, 2015. During the interview, Respondent admitted to the theft of
16 Alprazolam 1mg on several occasions over the previous year.

17 7. Respondent was terminated by Walgreens on September 11, 2015.

18
19 8. Walgreens Area Healthcare Supervisor, Lorri Walmsley, submitted a letter
20 to the Board on September 22, 2015, providing notice of the audit and Respondent's
21 subsequent termination from Walgreens.

22 9. After Respondent's termination from Walgreens, she remained unemployed
23 and did not engage in the practice of pharmacy for over six months, until obtaining
24 employment as a contract pharmacist on or around April 1, 2016.
25
26

1 10. On October 6, 2015, the Board sent an uncertified letter to Respondent's
2 address on file, providing notice of the pending complaint and requesting a written
3 response by October 30, 2015. Respondent did not receive the October 6th letter and no
4 response was submitted to the Board.
5

6 11. On March 16, 2016, the Board voted to offer Respondent a Consent
7 Agreement for Voluntary Suspension of her pharmacist license.
8

9 12. On March 30, 2016, the Board sent a certified letter to Respondent's address
10 on file, providing notice and offer of a Consent Agreement for Voluntary Suspension of
11 Respondent's License. The letter stated that should the offer be declined by Respondent,
12 the Board would consider Summary Suspension of Respondent's license at its May 2016
13 meeting.
14

15 13. On April 8, 2016, Respondent spoke with Executive Director, Kamlesh
16 Gandhi, rejecting the Board's offer of the Consent Agreement for Voluntary Suspension of
17 her license and requesting an appearance before the Board at its May 11, 2016 meeting.
18

19 14. On April 20, 2015, the Board sent a letter to Respondent, enclosing the
20 Proposed Interim Findings of Fact, Conclusions of Law and Order of Summary
21 Suspension for consideration of the May 11, 2016 Board meeting. Within the Proposed
22 Interim Findings of Fact, Conclusions of Law and Order for Summary Suspension, the
23 Board cited A.R.S. § 32-1927(j) as the basis for summary suspension of Respondent's
24 pharmacy license.
25
26

1 this Consent Agreement and Order. The effective date of this Consent Agreement and
2 Order is the date it is signed by the Board's Executive Director.

3
4 2. Within twenty (20) days of the effective date of this Consent Agreement
5 and Order, Respondent shall select a psychologist or psychiatrist or other health care
6 provider pre-approved by the Board's Executive Director and schedule an appointment to
7 undergo a complete substance abuse evaluation.

8
9 3. Within ninety (90) days of the effective date of this Consent Agreement,
10 Respondent shall have completed the substance abuse evaluation referenced in paragraph
11 2 above. Within thirty (30) days of the completion of the substance abuse evaluation, the
12 health care provider conducting the substance abuse evaluation shall provide the written
13 evaluation to the Board to include recommendations. Respondent shall provide the
14 evaluator with a copy of this Consent Agreement and Order.

15
16 4. Respondent shall complete and sign all releases necessary for the health
17 care provider to conduct the evaluation and provide the report to the Board. Respondent
18 shall be responsible for all costs associated with the evaluation.

19
20 5. Upon receipt of the written results of the evaluation, the Board shall meet
21 and confer to determine whether Respondent shall be subject to additional terms and
22 conditions of her probation based upon the results of the evaluation and the
23 recommendations of the evaluator.

24
25 6. Within five (5) business days of the effective date of this Consent
26 Agreement and Order, Respondent shall enter into **a contract with PAPA which shall**

1 **extend for the entire term of her probation under this Consent Agreement.**

2 Respondent shall abide by each and every requirement of the PAPA contract. Failure to
3 participate in the PAPA program, complete the PAPA program, or to abide by the PAPA
4 contract's terms is a violation of this Order.
5

6 7. No sooner than five (5) years from the effective date of the Consent
7 Agreement and Order, Respondent shall request in writing that the Board terminate her
8 probation. Respondent's request for termination shall be considered at a regularly
9 scheduled Board meeting and Respondent's personal appearance shall be mandatory at
10 that meeting and at any other time the Board requests during Respondent's probationary
11 period. Respondent's probationary period shall continue until Respondent's request for
12 termination is reviewed and granted by the Board. The decision whether to release
13 Respondent from the terms of probation lies within the sole discretion of the Board.
14
15

16 8. Respondent shall furnish all pharmacy employers with a copy of this
17 Consent Agreement. Respondent shall ensure that all pharmacy employers submit to the
18 Board a written acknowledgement that they have received a copy of this Consent
19 Agreement within ten (10) days of entering into an employment relationship with
20 Respondent.
21

22 9. Respondent shall not serve as a preceptor pharmacist or pharmacist in
23 charge while on probation.
24

25 10. Respondent shall advise the Board within ten (10) days of any change in
26 pharmacy employment status.

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

7 12. Respondent shall pay all necessary fees and complete all continuing
8 education requirements throughout the term of her probation.
9

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

16 14. During the first year of her probation, Respondent shall not be employed by
17 any pharmacy that possesses, inventories, or dispenses controlled substances.
18

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

21 16. After the first year of her probation, Respondent shall seek Board approval
22 prior to accepting employment with any pharmacy that possesses inventories, or dispenses
23 controlled substances.
24

25 17. Throughout the term of Respondent's probation, Respondent shall personally
26 appear before the Board when requested to do so by the Board or Board staff.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

19. Respondent shall obey all federal and state laws and rules governing the practice of pharmacy.

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

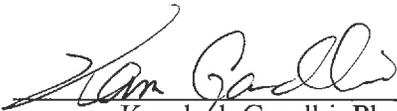
21. Respondent shall pay all costs associated with complying with this Consent Agreement, including all expenses associated with PAPA.

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

DATED this 6 day of October, 2016.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By: 
Kamlesh Gandhi, PharmD
Executive Director

1 ORIGINAL OF THE FORGOING FILED
2 this ___ day of _____, 2016, with:

3 Arizona State Board of Pharmacy
4 1700 West Washington, Suite 250
Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING
6 MAILED BY FIRST-CLASS and CERTIFIED
MAIL this ___ day of _____, 2016, to:

7
8 Lindsey Dalzell-Thai
9 1380 W. Derringer Way
Chandler, AZ 85286
10 Roger Morris
Quarles & Brady, LLP
11 2 N. Central Ave., Ste. 3
Phoenix, AZ 85004
12

13 EXECUTED COPY OF THE FOREGOING MAILED
14 This ___ day of _____, 2016, to:

15 Jeanne M. Galvin
Assistant Attorney General
16 1275 W. Washington Street, SGD/LES
17 Phoenix, Arizona 85007
Attorney for the Board
18
19
20 _____
21
22
23
24
25
26