

1 MARK BRNOVICH
Attorney General
(Firm State Bar No. 14000)

2
3 JEANNE M. GALVIN
Assistant Attorney General
State Bar No. 015072
4 1275 W. Washington, SDG/LES
Phoenix, Arizona 85007-2997
5 Tel: (602) 542-7983
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

8 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

9 In the Matter of

10 **DORIAN FOSTER,**

11 Holder of License No. S021101
12 As a Pharmacist
13 In the State of Arizona.

Board Case No. 17-0008-PHR

**CONSENT AGREEMENT
AND ORDER FOR SUSPENSION
AND PROBATION**

14
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.*, Dorian Foster, - (“Respondent”),
18 holder of Pharmacy License No. S021101 in the State of Arizona and the Board enter into
19 the following Recitals, Findings of Fact, Conclusions of Law and Order (“Consent
20 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.

25
26

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. 17-0008 involving allegations of unprofessional conduct against
13 Respondent.

14 6. Respondent understands that this Consent Agreement does not constitute a
15 dismissal or resolution of any other matters currently pending before the Board, if any,
16 and does not constitute a waiver, express or implied, of the Board's statutory authority or
17 jurisdiction regarding any other pending or future investigation, action or proceeding.

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

22 8. All admissions made by Respondent are solely for the final disposition of
23 this matter and any subsequent related administrative proceedings or civil investigation
24 involving the Board and Respondent. Therefore, said admissions by Respondent are not
25 intended or made of any other use, such as in the context of another state or federal
26

1 government regulatory agency proceeding, civil or criminal court proceeding, in the State
2 of Arizona or any other state or federal court.

3 9. Respondent acknowledges and agrees that, upon signing this Consent
4 Agreement and returning this document to the Board's Executive Director, she may not
5 revoke her acceptance of the Consent Agreement or make any modifications to the
6 document. Any modification to this original document is ineffective and void unless
7 mutually agreed by the parties in writing.

8 10. This Consent Agreement is subject to the approval of the Board and is
9 effective only when signed by the Executive Director. In the event that the Board does
10 not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value
11 and shall not be relied upon nor introduced in any action by any party, except that the
12 parties agree that should the Board reject this Consent Agreement and this case proceeds
13 to hearing, Respondent shall assert no claim that the Board was prejudiced by its review
14 and discussion of this document or any records relating thereto.

15 11. If a court of competent jurisdiction rules that any part of this Consent
16 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
17 shall remain in full force and effect.

18 12. Respondent understands that this Consent Agreement is a public record that
19 may be publicly disseminated as a formal action of the Board and may be reported as
20 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
21 Protection Data Bank.

22 13. Respondent understands that any violation of this Consent Agreement
23 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §32-
24 1901.01(B) (20) and A.R.S. §32 - 1927(A) (1).

25
26

1 14. Respondent agrees that the Board will adopt the following Findings of Fact,
2 Conclusions of Law and Order.

3 ACCEPTED AND AGREED BY RESPONDENT

4  PPH. Dated: 9.25.17
5

6 Dorian Foster
7 Pharmacist

8 **FINDINGS OF FACT**

9 1. The Board is the duly constituted authority for regulating the practice of
10 pharmacy in the State of Arizona.

11 2. Respondent is the holder of license number S021101 which allows her to
12 practice as a Pharmacist in the State of Arizona.

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

15 4. At all relevant times, Respondent was employed as a Pharmacist and the
16 Pharmacist In Charge (PIC) at Safeway Store #1733 in Show Low, Arizona.

17 5. On or about July 14, 2017, the Board received information from Mr.
18 Charlie Painter, Manager, Pharmacy Professional Services Department with Albertsons
19 Companies, that Respondent had admitted to diverting Carisoprodol from the pharmacy
20 for personal use.

21 6. Respondent was terminated from Safeway Pharmacy on July 19, 2017.

22 7. In a written statement (dated July 13, 2017) provided to Ms. Helen Dalton,
23 District Loss Prevention Manager with Albertsons Companies, Respondent noted the
24 following:

25 A. Respondent was experiencing a significant amount of work-related
26

1 stress that caused her migraine headaches.

2 B. When aspirin did not alleviate her pain, the Respondent stated that she
3 self-prescribed Carisoprodol and took the medication from the
4 pharmacy.

5
6 8. Respondent has completed a 30 day in-patient treatment program.

7
8 **CONCLUSIONS OF LAW**

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

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

13 3. The conduct and circumstances described above, if true, constitute
14 unprofessional– conduct pursuant to A.R.S. § 32-1901.01 (B) (10) and (19).

15 **ORDER**

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

17 IT IS HEREBY ORDERED THAT Pharmacy License No. S021101, which was
18 issued to Respondent for the practice of Pharmacy in the State of Arizona, is hereby
19 placed on **SUSPENSION** for a minimum period of six (6) months beginning on July 19,
20 2017. The effective date of the Consent Agreement and Order is the date it is signed by
21 the Board’s Executive Director.

22 Prior to the suspension being lifted, Respondent must request in writing to the
23 Board that the suspension be lifted. Respondent must also appear in person before the
24 Board at the meeting at which her request will be considered. Only when the suspension
25 is lifted, does the probationary period begin as outlined below.

1 After the suspension is lifted, Respondent's license shall be placed on
2 **PROBATION** for a minimum period of -four (4) years and six (6) months from the final
3 date of suspension.

4 The SUSPENSION and PROBATION are subject to the following conditions:

5 1. Respondent shall return her pharmacy license to the Board for the period of
6 suspension.

7 2. Respondent shall enter into a contract with Pharmacists Assisting
8 Pharmacists of Arizona ("PAPA") on or before the effective date of this Consent
9 Agreement. Respondent's PAPA contract shall extend for the entire term of her
10 suspension and probation under this Consent Agreement. Respondent shall abide by each
11 and every requirement of the PAPA contract. Failure to participate in the PAPA
12 program, complete the PAPA program or to abide by the PAPA contract's terms is a
13 violation of this Order.

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

19 4. Respondent shall pay all necessary fees relating to this probation and
20 suspension.

21 5. Respondent shall furnish all pharmacy employers/preceptors with a copy of
22 this Board Order throughout the term of her probation. Respondent shall ensure that all
23 pharmacy employers submit to the Board a written acknowledgement that they have
24 received a copy of this Consent Agreement within ten (10) days of entering into an
25 employment relationship with Respondent.

26

1 6. Respondent shall advise the Board immediately of any change in pharmacy
2 employment status throughout the term of her probation.

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

6 8. Respondent shall obey all federal and state laws and rules governing the
7 practice of pharmacy.

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

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

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

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

21 13. Respondent shall appear before the Board at a regularly scheduled Board
22 meeting five years after the effective date of this Order to request that the probation
23 imposed by this Order be terminated. Respondent's failure to petition the Board to
24 terminate the probation shall extend the probation period.

25 DATED this 10 day of October, 2017.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By: 
KAMLESH GANDHI, PHARM.D.
Executive Director

ORIGINAL OF THE FORGOING FILED
this ____ day of _____, 2017, with:

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

EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL
this ____ day of _____, 2017, to:

Dorian Foster
Address of record

EXECUTED COPY OF THE FOREGOING MAILED
BY REGULAR MAIL
this ____ day of _____, 2017, to:

Andy Sniegowski
Snell & Wilmer, L.L.P.
One Arizona Center
Phoenix, AZ 85004-2202
Attorney For Respondent

EXECUTED COPY OF THE FOREGOING MAILED
this ____ day of _____, 2017, to:

Jeanne M. Galvin
Assistant Attorney General
1275 W. Washington Street, SGD/LES
Phoenix, Arizona 85007
Attorney for the Board

Doc # 6254109