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

10 IN THE MATTER OF:

11 **LINDSEY DALZELL-THAI**

12 Holder of License No. S013641
for the Practice of Pharmacy
13 in the State of Arizona,

14 Respondent.

Board Case No. 4536-PHR

**FIRST AMENDED CONSENT
AGREEMENT
AND ORDER FOR PROBATION**

15
16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and the responsibilities of the Arizona State Board
18 of Pharmacy ("Board") under A.R.S. § 32-1901, *e. seq.*, Lindsey Dalzell-Thai
19 ("Respondent"), holder of Pharmacist License Number S013641 in the State of Arizona,
20 and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law
21 and Order ("Consent Agreement") as a final disposition of this matter.

22 **RECITALS**

23 1. Respondent has read and understands this Consent Agreement and has had
24 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
25 opportunity to discuss this Consent Agreement with an attorney.
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 number 4449 involving allegations of unprofessional conduct against
13 Respondent. The investigation into these allegations against Respondent shall be
14 concluded upon the 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
26

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), -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 ...

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2017 OCT -4 AM 10: 19

1 ACCEPTED AND AGREED BY RESPONDENT

2 

3 Lindsey Dalzell-Thai

Dated: 9/21/17

4
5 **FINDINGS OF FACT**

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

8 2. Respondent is the holder of license number S013641 to practice as a
9 pharmacist in the State of Arizona. She has been licensed since May 14, 2003.

10 3. On or about October 6, 2016, Respondent and the Board entered into a
11 Consent Agreement and Order (the "First Consent Agreement and Order") for Probation
12 in case number 4449, that involved Respondent's theft of Alprazolam from her then-
13 employer, Walgreens.

14 4. Pursuant to the terms of the Consent Agreement and Order for Probation,
15 Respondent's license to practice as a pharmacist was placed on probation for a period of
16 five (5) years and, on October 27, 2016 she entered into a contract with Pharmacists
17 Assisting Pharmacists Arizona ("PAPA") under which she was subjected to, *inter alia*,
18 random drug screening.

19 5. On or about March 27, 2017, Ms. Deborah Marcum, the PAPA
20 Administrative Manager notified the Board that Respondent tested positive for Ethyl
21 glucuronide on March 17, 2017. As a result, Respondent's PAPA contract was
22 terminated. Respondent did not challenge the results.

23 6. Respondent entered into a new PAPA contract on March 27, 2017 ("2017
24 PAPA Contract"), the terms of which are identical to that of the October 27, 2016 PAPA
25 Contract.
26

1 3. No sooner than five (5) years from the effective date of the First Consent
2 Agreement and Order, October 6, 2016, Respondent shall request in writing that the
3 Board terminate her probation. Respondent's request for termination shall be considered
4 at a regularly scheduled Board meeting and Respondent's personal appearance shall be
5 mandatory at that meeting and at any other time the Board requests during Respondent's
6 probationary period. Respondent's probationary period shall continue until Respondent's
7 request for termination is reviewed and granted by the Board. The decision whether to
8 release Respondent from the terms of probation lies within the sole discretion of the
9 Board.

10 4. Respondent shall furnish all pharmacy employers with a copy of this
11 Amended Consent Agreement. Respondent shall ensure that all pharmacy employers
12 submit to the Board a written acknowledgement that they have received a copy of this
13 Amended Consent Agreement within ten (10) days of entering into an employment
14 relationship with Respondent.

15 5. Respondent shall not serve as a preceptor pharmacist or pharmacist in
16 charge while on probation.

17 6. Respondent shall advise the Board within ten (10) days of any change in
18 pharmacy employment status.

19 7. Within five (5) years from October 6, 2016, Respondent shall complete 400
20 hours of community service approved by Board staff. Respondent shall ensure that all
21 entities to which she provides community service verify in writing to the Board the
22 number of hours completed within 30 days of Respondent completing the community
23 service.

24 8. Respondent shall pay all necessary fees and complete all continuing
25 education requirements throughout the term of her probation.

26

1 9. During the first year of her probation, Respondent shall not be employed by
2 any pharmacy that possesses, inventories, or dispenses controlled substances.

3 10. After the first year of her probation, Respondent shall seek Board approval
4 prior to accepting employment with any pharmacy that possesses, inventories, or
5 dispenses controlled substances.

6 11. Throughout the term of Respondent's probation, Respondent shall
7 personally appear before the Board when requested to do so by the Board or Board staff.

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

11 13. Respondent shall obey all federal and state laws and rules governing the
12 practice of pharmacy.

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

16 15. Respondent shall pay all costs associated with complying with this
17 Amended Consent Agreement, including all expenses associated with PAPA.

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

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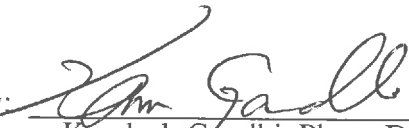
25

26

1 DATED this 12 day of October, 2017.

3 ARIZONA STATE BOARD OF PHARMACY

4 (Seal)

5
6 By: 
7 Kamlesh Gandhi, PharmD
8 Executive Director

9 ORIGINAL OF THE FORGOING FILED
10 this 12th day of October, 2017, with:

11 Arizona State Board of Pharmacy
12 1700 West Washington, Suite 250
13 Phoenix, Arizona 85007

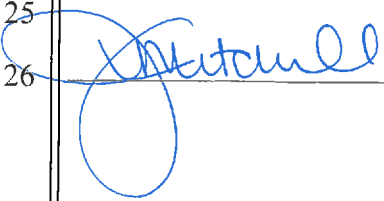
14 EXECUTED COPY OF THE FOREGOING MAILED
15 BY FIRST-CLASS and CERTIFIED MAIL
16 this 12th day of October, 2017, to:

17 Lindsey Dalzell-Thai
18 2121 N. Grace Blvd.
19 #166
20 Chandler, AZ 85225

21 Nicholas H. Meza
22 Quarles & Brady, LLP
23 2 N. Central Ave., Ste. 3
24 Phoenix, AZ 85004
25 Attorney for Respondent

26 EXECUTED COPY OF THE FOREGOING MAILED
this 12th day of October, 2017, to:

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



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