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AZ BOARD OF PHARMACY

7 Attorneys for the Arizona State Board of Pharmacy

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

10 In the Matter of

11 **THOMAS DALKIN,**

Board Case No. 12-0007-PHR

12 Holder of License No. S0122696 12296  
For the Practice of Pharmacy  
13 In the State of Arizona

**CONSENT AGREEMENT  
AND ORDER OF 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.*, Thomas Dalkin ("Respondent"),  
18 holder of Pharmacist License Number S0122696 in the State of Arizona, and the Board  
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order  
20 ("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.  
25  
26

1           2.     Respondent understands that he has a right to a public administrative  
2 hearing concerning this matter at which hearing he 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 him.

11          5.     Respondent understands this Consent Agreement deals with Board  
12 Complaint No. 3975 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, he may not  
25 revoke his 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).

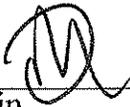
22 13. Respondent agrees that the Board will adopt the following Findings of Fact,  
23 Conclusions of Law and Order.

24 ...

25 ...

26

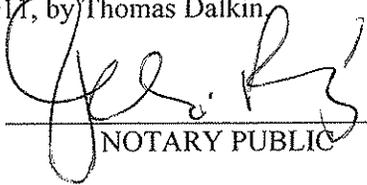
1 ACCEPTED AND AGREED BY RESPONDENT

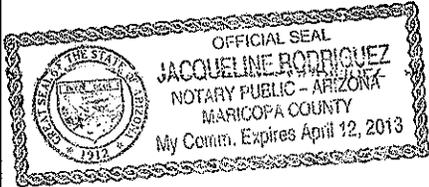
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Dated: 8-29-11

3 Thomas Dalkin

4 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,  
5 this 30 day of August, 2011, by Thomas Dalkin.

6   
7 NOTARY PUBLIC



8 My Commission expires: 4-12-2013

9 **FINDINGS OF FACT**

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

12 2. Respondent is the holder of license number S0122696 to practice as a  
13 pharmacist in the State of Arizona.

14 3. On October 26, 2006, Respondent signed a Consent Agreement and Order  
15 for Suspension and Probation in Board Case No. 07-0016-PHR (the "2007 Consent  
16 Agreement"). The 2006 Consent Agreement became effective on November 10, 2006.

17 4. The 2006 Consent Agreement required, among other things, that  
18 Respondent comply with the five-year contract with Pharmacists Assisting Pharmacists  
19 of Arizona ("PAPA"), which Respondent signed on January 16, 2007 (the "PAPA  
20 Contract"). 2006 Consent Agreement at 6, ¶1(A).

21 5. The PAPA Contract required, among other things that Respondent  
22 completely abstain from alcohol and mood-altering drugs except on prescription from his  
23 family physician after consultation with PAPA. PAPA Contract at 2, #4.

24 6. On May 15, 2011, Respondent tested positive for alcohol in violation of the  
25 PAPA Contract.



1 to complete the PAPA program or abide by the PAPA contract's terms is a  
2 violation of this Order.

3 C. Respondent shall furnish all pharmacy employers with a copy of this  
4 Consent Agreement. Respondent shall ensure that all pharmacy employers submit  
5 to the Board a written acknowledgement that they have received a copy of this  
6 Consent Agreement within ten (10) days of entering into an employment  
7 relationship with Respondent.

8 D. Respondent shall not serve as a preceptor pharmacist or pharmacist  
9 in charge.

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

12 F. Within five (5) years from the beginning of Respondent's  
13 probationary period, Respondent shall complete 400 hours of community service  
14 approved by Board staff. Respondent shall ensure that all entities to which he  
15 provides community service verify in writing to the Board the number of hours  
16 completed within 30 days of completing the community service.

17 3. Respondent shall pay all necessary fees and complete all continuing  
18 education requirements throughout the term of his probation.

19 4. Throughout the term of Respondent's probation, Respondent shall  
20 personally appear before the Board when requested to do so by the Board or Board staff.

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

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

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