

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

2 In the Matter of:

3 MAYUR M. DEV, RPh. )  
4 Holder of License No. 12925 )  
5 For the Practice of Pharmacy )  
6 In the State of Arizona, )  
7 Respondent )

Investigation Case Number 04-0010-PHR  
**CONSENT AGREEMENT AND ORDER  
FOR SUSPENSION AND PROBATION**

6 **RECITALS**

7  
8 In the interest of a prompt and judicious settlement of this case, consistent with the public  
9 interest, statutory requirements and the responsibilities of the Arizona State Board of Pharmacy ("Board")  
10 and under A.R.S. §§ 32-1901 *et. seq.* and 41-1092.07(F)(5) , MAYUR M. DEV ("Respondent"),  
11 holder of pharmacist license number 12925 to practice pharmacy in the State of Arizona, and the Board  
12 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent  
13 Agreement") as a final disposition of this matter.

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

17 2. Respondent understands that he has a right to a public administrative hearing concerning the  
18 above-captioned matter, at which hearing he could present evidence and cross-examine witnesses. By  
19 entering into this Consent Agreement, Respondent freely and voluntarily relinquishes all right  
20 to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial  
21 review or any other administrative and/or judicial action, concerning the matters set forth herein.  
22 Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

23 3. Respondent understands that this Consent Agreement or any part of the agreement may  
24 be considered in any future disciplinary action against him.

25 4. Respondent understands this Consent Agreement deals with Board Investigation  
26 Case No. 04-0010-PHR involving allegations of unprofessional conduct against Respondent. The

1 investigation into these allegations against Respondent shall be concluded upon the Board's  
2 adoption of this Consent Agreement.

3 5. Respondent understands that this Consent Agreement does not constitute a dismissal  
4 or resolution of any other matters currently pending before the Board, if any, and does not constitute any  
5 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any other pending  
6 or future investigation, action or proceeding. Respondent also understands that acceptance of this  
7 Consent Agreement does not preclude any other agency, subdivision, or officer of this State from  
8 instituting other civil or criminal proceedings with respect to the conduct that is the subject of this  
9 Consent Agreement.

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

15 7. Respondent understands that the Consent Agreement shall not become effective unless  
16 and until adopted by the Board and signed by its Executive Director.

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

20 9. Respondent understands and agrees that if the Board does not adopt this Consent  
21 Agreement, he will not assert as a defense that the Board's consideration of this Consent  
22 Agreement constitutes bias, prejudice, prejudgement or other similar defense.

23 10. Respondent understands that this Consent Agreement is a public record that may be  
24 publicly disseminated as a formal action of the Board and may be reported as required by law to  
25 the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

26 11. Respondent understands that any violation of this Consent Agreement constitutes

1 unprofessional conduct under A.R.S. § 32-1927 (A) (17) (the licensee violated a formal order, terms of  
2 probation, a consent agreement or a stipulation issued or entered into by the board or its Executive  
3 Director pursuant to this chapter) and may result in disciplinary action under A.R.S. § 32-1927.

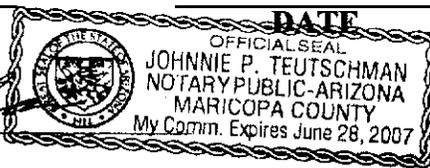
4 **REVIEWED AND ACCEPTED BY:**

5 *May M. Dev*  
6 **MAYUR M. DEV**

5-17-04

DATE

7 *Johnnie P. Teutschman*  
8 **Notary Public**



9 **FINDINGS OF FACT**

10 By stipulation of the parties, this Consent Agreement is entered into for final disposition of the  
11 matters described herein. Respondent admits to the following Findings of Fact:

12 12. The Board is the duly constituted authority for the regulation and control of the practice of  
13 pharmacy in the State of Arizona.

14 13. The Board possesses jurisdiction over the subject matter and over Respondent as a licensee  
15 of the Board.

16 14. Respondent is the holder of a license 12925 which permits him to engage in the practice of  
17 pharmacy in the State of Arizona.

18 15. From October 2, 2001 to September 20, 2003, Respondent was employed as the pharmacist-  
19 in-charge at Target Pharmacy #851, 7409 W. Virginia Avenue, Phoenix, Arizona.

20 16. On September 20, 2003, Respondent voluntarily admitted to his employer, Target, that he stole  
21 five hundred dollars (\$500.00) worth of non-controlled substance prescription medications, including  
22 Clinac BPO gel, on the evening of September 20, 2003. (See Exhibit A - Respondent's Signed  
23 Admission).

24 17. Respondent's theft of non-controlled substance prescription medications from Target  
25 Pharmacy #851 is a violation of A.R.S. § 32-1968(A).

26 18. Respondent signed a promissory note to reimburse the Target Pharmacy for the theft and he

1 has reimbursed the pharmacy in full.

2 **CONCLUSIONS OF LAW**

3 19. The Board is the duly constituted authority for the regulation and control of the practice of  
4 pharmacy in the state of Arizona, under A.R.S. § 32-1901, et seq.

5 20. The conduct and circumstances described in paragraph 15 above constitutes a  
6 violation (s) of A.R.S. § 32-1968 (A) to wit:

7 **A.R.S. § 32-1968 (A):** A prescription-only drug shall be dispensed only under one of the  
8 following conditions:

- 9 1. By a medical practitioner in conformance with section 32-1921.  
10 2. On a written prescription order  
11 3. On an oral prescription order that is reduced promptly to writing and filed by the  
12 pharmacist.  
13 4. By renewing any written or oral prescription order if a renewal is authorized by the  
14 prescriber either in the original prescription order or by an oral order that is reduced  
15 promptly to writing and filed by the pharmacist

16 21. The conduct and circumstances described in the Findings of Fact above constitute  
17 grounds for disciplinary action under A.R.S. § 32-1927 (A)(10) and A.R.S. § 32-1927 (B)(2) to  
18 wit:

19 **A.R.S. § 32-1927 (A)(10)** The license of any pharmacist or pharmacy intern may be revoked  
20 or suspended or a pharmacist or pharmacy intern may be placed on probation by the board  
21 when :

22 The licensee is found by the board to be guilty of violating any Arizona or federal  
23 law, rule, or regulation relating to the manufacture and distribution of drugs, devices, or the  
24 practice of pharmacy.

25 **A.R.S. § 32-1927 (B)(2)** The license of any pharmacist or pharmacy intern may be revoked  
26 or suspended or the pharmacist or pharmacy intern may be placed on probation or censured  
and a civil penalty of not more than one thousand dollars (\$1000.00) for each offense may  
be imposed by the board when:

The licensee is found by the board, or is convicted in a federal or state court, of having  
violated federal or state laws or administrative rules pertaining to marijuana, prescription-  
only drugs, narcotics, dangerous drugs or controlled substances.

27 **ORDER**

28 Based upon the above Findings of Fact and Conclusions of Law and under the authority granted  
29 to the Board under A.R.S. § 32-1928, 41-1092.07 (F)(5), and A.A.C. R4-23-104(G).

30 **IT IS HEREBY ORDERED** that:

1           22. License No. 12925, which was issued to Respondent for the practice of pharmacy in the State  
2 of Arizona, is hereby placed on **PROBATION** until September 21, 2004 upon adoption of this Consent  
3 Agreement by the Board.

4 The **PROBATION** is subject to the following conditions:

5           23. Respondent shall pay all fees and complete all Continuing Education requirements throughout  
6 the term of his probation to maintain Pharmacist License Number 12925.

7           24. Respondent shall not serve as a preceptor pharmacist throughout the term of his probation.

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

10          26. Respondent shall furnish the Board with a list of all jurisdictions in which he maintains or  
11 has maintained licensure in the profession of pharmacy along with the registration number of said licenses.

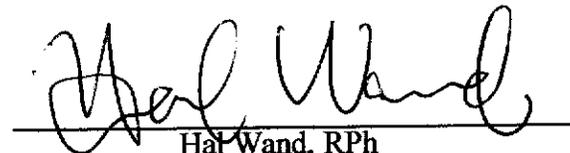
12          27. Respondent is required to advise the Board immediately of any change in pharmacy  
13 employment status throughout the term of his probation.

14          28. Respondent is required to furnish all pharmacy employers with a copy of this Board Order  
15 throughout the term of his probation.

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

20  
21 **DATED and EFFECTIVE this 24<sup>th</sup> day of June, 2004**

22 **ARIZONA STATE BOARD OF PHARMACY**

23  
24 

25 Hal Wand, RPh  
26 Executive Director  
Arizona State Board of Pharmacy

1 ORIGINAL of the foregoing, fully executed,  
2 filed this 25<sup>th</sup> day of June, 2004, with:

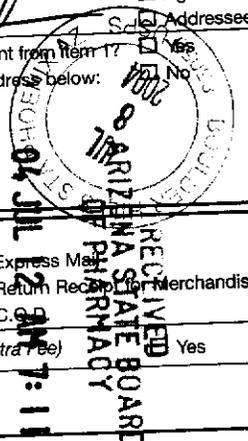
3 Arizona State Board of Pharmacy  
4 4425 W. Olive Avenue, #140  
5 Glendale, Arizona 85302

6 Fully Executed Copy of the foregoing sent  
7 via Certified US mail this 25<sup>th</sup> day of  
8 June, 2004 to:

9 MAYUR M. DEV  
10 6900 E. Princess Drive #2110  
11 Phoenix, AZ 85054

12 Copy or the foregoing mailed  
13 this 25<sup>th</sup> day of June, 2004 to:

14 Roberto Pulver  
15 Assistant Attorney General  
16 1275 W. Washington, CIV/LES  
17 Phoenix, Arizona 85007  
18 Attorney for the State

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"><li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>Print your name and address on the reverse so that we can return the card to you.</li><li>Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	A. Received by (Please Print Clearly) <i>Mayur M Dev</i>		B. Date of Delivery <i>7/8/04</i>
	C. Signature <i>M M Dev</i>		<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee
1. Article Addressed to:  MAYUR M DEV 6900 E PRINCESS DR #2110 PHOENIX AZ 85054		D. Is delivery address different from item 1? If YES, enter delivery address below:  	
2. Article Number (Copy from service label) <i>7000 1670 0006 4393 4174</i>		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
PS Form 3811, July 1999		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	