

BEFORE THE KANSAS BOARD OF PHARMACY

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Frieden, Haynes & Forbes

In the Matter of)
)
PAMELA L. STODDART, R.Ph.)
Kansas License No. 1-11059)

Case No. 01-41

Received
JUN 08 2004
Kansas State
Board of Pharmacy

STIPULATION AND FINAL AGENCY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and Pamela L. Stoddart, R.Ph. (the "Respondent") as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden, Haynes & Forbes, 555 South Kansas Avenue, Suite 303, Topeka, Kansas 66603. The Respondent is represented herein by her attorney, Steve A. Schwarm, Polsinelli, Shalton, Welte, 555 Kansas Avenue, Suite 301, Topeka, Kansas 66603.

2. The Board is the Kansas agency vested with the authority to carry out and enforce the provisions of the Kansas Pharmacy Law, K.S.A. 65-1626 *et seq.*, including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas license to practice pharmacy.

3. The Respondent is presently entitled to engage in the practice of pharmacy in the State of Kansas by reason of the Board having issued her Kansas license number 1-11059. At all times relevant hereto, the Respondent has held a current license to engage in the practice of pharmacy in the State of Kansas.

4. The Board has received certain information, has investigated and has determined that there are reasonable grounds to believe that the Respondent has committed an act or acts in violation of the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.*

Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board for the following matters: At various times, Respondent took and consumed prescription drugs (injectable morphine, hydromorphone and meperidine) belonging to her employer and for which Respondent did not have a valid prescription. At various times, Respondent falsified records of her employer regarding said drugs. On or about October 7, 2003 Respondent entered into a Settlement Agreement with the Missouri Board of Pharmacy by which her Missouri pharmacy license was disciplined, including a temporary suspension of that license.

Although the Respondent does not admit and does deny having violated the terms of an agreement with the Board, Respondent admits the Board's Investigation Member believes there is evidence from which it can be concluded that at various times after entering into agreements with the Board that included agreements by Respondent to not take prescription drugs without a valid prescription, Respondent violated those agreements.

The Board finds and concludes that Respondent's conduct, as described above, violates various provisions of the Pharmacy Act and regulations promulgated pursuant and is grounds for disciplinary action against her license to practice pharmacy in the State of Kansas pursuant to K.S.A. 65-1627 (a)(3), as defined by K.S.A. 65-1626 (ee)(2) and (hh)(5); K.S.A. 65-1627 (a)(5), K.S.A. 65-1627 (a)(12), and K.S.A. 65-1627 (a)(13).

5. The Board finds and the Respondent agrees that the following disposition is just and appropriate under the circumstances:

A. **IMPAIRED PROVIDER PROGRAM.** If Respondent is not currently party to an agreement with the Kansas Pharmacy Impaired Provider Program she shall immediately enter into an agreement with the Kansas Pharmacy Impaired Provider Program for

treatment, which agreement shall provide for an anticipated completion date no sooner than June 2008.. Respondent shall fully cooperate with the recommendations and requirements of the persons managing and implementing the Kansas Pharmacy Impaired Provider Program, the recommendations and requirements of the persons managing and implementing the evaluation and treatment programs recommended or required by the Kansas Pharmacy Impaired Provider Program and the further requirements of the Board. Respondent shall at all times be in full compliance with the requirements of the Kansas Pharmacy Impaired Provider Program. The Respondent shall authorize the Kansas Pharmacy Impaired Provider Program and any provider of evaluation or treatment programs she engages in to provide full and complete documentation and information regarding the Respondent's involvement in the programs, her evaluations and treatment, including, but not limited to, all records and medical reports.

B. FUTURE SUSPENSION. Respondent hereby agrees and consents that if during a forty-eight (48) month period beginning on the effective date of the Final Agency Order contemplated hereby, the Board receives a report that she is out of compliance with the Kansas Pharmacy Impaired Provider Program, the Board shall, without the necessity of a hearing, enter an order indefinitely suspending her license to practice pharmacy in the State of Kansas. Respondent hereby agrees and consents that should such order be entered, she will not request that the Board reinstate her license until she has been in a program approved by the Board requiring her to submit to random drug tests and has no reports of positive drug tests for a period of at least 24 months following entry of the order.

Respondent acknowledges that she would have the ability to take advantage of all applicable provisions of the Kansas Administrative Procedures Act and the Act For Judicial Review and Civil Enforcement of Agency Action before an order of indefinite suspension as

discussed in this section would be entered against her. The Respondent freely waives these rights in the event the Board receives a report that she is out of compliance with the Kansas Pharmacy Impaired Provider Program during a forty-eight (48) month period beginning on the effective date of the Final Agency Order contemplated hereby and acknowledges that said waiver is made voluntarily and in consideration of the Board's limiting the disciplinary action taken against her to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest such order of indefinite suspension.

C. RESTRICTION ON ACTING AS PHARMACIST IN CHARGE. During the forty-eight (48) month period beginning on the effective date of the Final Agency Order contemplated hereby, Respondent shall not serve or perform the duties of a pharmacist in charge in any practice setting. The Respondent will immediately notify the Board office of her current employment, if any, and shall notify the Board office within ten (10) days of any change in her employment.

D. WORK ARRANGEMENTS. Until further order of the Board, the Respondent shall not be in a pharmacy for any length of time unless another pharmacist or a pharmacy technician is also present in the pharmacy.

E. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Final Agency Order she must:

1. Comply fully with this Stipulation and Final Agency Order;
2. Comply fully with the Kansas Pharmacy Act, the Board's rules and regulations and all state and federal laws relating to Kansas pharmacists;

3. Provide a copy of this Stipulation to any current pharmacy employer and to each new pharmacy employer she may have during the forty-eight (48) month period beginning on the effective date of the Final Agency Order contemplated hereby;

4. Appear at the Board meeting at which the Stipulation is considered. Respondent shall be responsible for contacting the Board office to determine the date and location of the Board meeting and the time she is to appear.

6. Respondent agrees that all information in the possession of the Board or its attorney regarding the investigation which led to this disciplinary action and all information discovered during the pendency of the disciplinary action may be disclosed to and considered by the Board as part of the presentation and consideration of the proposal of settlement in the form of this Stipulation and Final Agency Order and the Final Order provided for herein, with or without the presence of the Respondent or her attorney. In the event that this Stipulation and Final Agency Order and the Final Order provided for herein are not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Stipulation and Final Agency Order or the information mentioned in the preceding sentence and further agrees to waive any claim of due process violation or the right to seek the disqualification of any Board member as a result of the Board member's consideration of said document and information.

7. The stipulations contained herein shall not become binding until this Stipulation and Final Agency Order is approved by the Board and the Final Order provided for herein is entered by the Board. The Respondent acknowledges that the approval of the Board's attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Final Agency Order or the Final Order provided for herein.

8. The Respondent agrees that this Stipulation and Final Agency Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it and enter the Final Order provided for herein. The Respondent further agrees that the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.* is constitutional on its face and as applied in this case.

9. This stipulation constitutes the entire agreement of the parties and may only be modified by a subsequent writing signed by them. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

10. The Respondent acknowledges that she has the following rights:

A. To have formal notice of charges served upon her;

B. To file a response to the charges;

C. To have notice of and participate in a formal adjudicative hearing with the Board making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing.

D. To take advantage of all applicable provisions of the Kansas Administrative Procedures Act and the Act For Judicial Review and Civil Enforcement of Agency Action.

The Respondent freely waives these rights and acknowledges that said waiver is made voluntarily and in consideration of the Board's limiting the disciplinary action taken against her to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Final Agency Order and the Final Order provided for herein.

11. The Respondent acknowledges that she enters into this Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of her choosing. The

Respondent further acknowledges that she has read this Stipulation and Final Agency order in its entirety, that she understands its legal consequences and that she agrees that none of its terms are unconscionable, arbitrary or capricious.

12. Time is of the essence to this Stipulation and Final Agency Order. Respondent acknowledges and agrees that any violation of this Stipulation and Final Agency Order shall constitute a willful violation of a lawful Board order and grounds, in and of itself, for further disciplinary action against her. The pendency of any disciplinary action arising out of an alleged violation of this Stipulation and Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Final Agency Order.

13. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

A. Adverse Action Classification: "1147 Limitation or Restriction on License."

B. Basis For Action: "10 Unprofessional Conduct."

14. The following statement will be made in the Board's newsletter: "Pamela L. Stoddart, R.Ph. of Platte Woods, Missouri was disciplined by the Board entering an order limiting her license."

15. This Stipulation and Final Agency Order constitutes the entire and final agreement of the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Stipulation and Final Agency Order shall be given full force and effect.

16. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record in the custody of the Board.

17. This Stipulation and Final Agency Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's authorized representative.

18. The Respondent acknowledges that she has been advised by the Board that she would have the right within 15 days after service of the Final Order provided for herein to file a petition for reconsideration with the Board and the right within 30 days after service of the Final Order provided for herein to file a petition for judicial review in the District Court of Shawnee County, Kansas in accordance with the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* and to serve such a petition for judicial review on the Kansas Pharmacy Board by serving Debra Billingsley, its Executive Director. The Respondent hereby waives those rights.

APPROVED BY:

Randall J. Forbes, F.A. #09089
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Topeka, KS 66603
(785) 232-7266
Attorney for the Kansas Board of Pharmacy

6.7.04

Date

