

BEFORE THE KANSAS BOARD OF PHARMACY

Received

MAR 16 2006

KANSAS STATE  
Board of Pharmacy

In the Matter of )  
 )  
JILL C. CARRELL, R.Ph. )  
License No. 1-14051 )

Case No. 05-38

**STIPULATION AND FINAL AGENCY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and Jill C. Carrell, R.Ph. (the "Applicant") 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 Applicant is represented herein by her attorney,

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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 Applicant presently holds a license to practice of pharmacy in the State of Missouri and has applied to the Board for a license to practice pharmacy in the State of Kansas.

4. The Board has received certain information, has investigated and has determined that there are grounds that could be determined to be sufficient to deny the Applicant a Kansas pharmacy license.

Applicant hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board that her Missouri pharmacy license has previously been disciplined by the Missouri State Board of Pharmacy and that on April 8, 2002 the Missouri State Board of Pharmacy issued an order placing Applicant's Missouri pharmacy license on a probated status.

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

A. VOLUNTARY SURRENDER OF LICENSE WITH CONDITIONS.

The Respondent hereby agrees and consents to the Board's entry of an order accepting the voluntarily surrendered of Respondent's license to practice pharmacy in the State of Kansas, with the conditions stated herein. As a condition of the Board accepting the voluntary surrender of her license, in lieu of other disciplinary action, the Respondent further agrees to the Board entering an order that provides if Respondent should ever again apply for licensure as a pharmacist in Kansas, the Respondent shall have the burden to prove, by clear and convincing evidence, that she is rehabilitated and competent to return to the practice of pharmacy in the State of Kansas. As a part of that agreement, it is further agreed that in considering whether Respondent has met her burden of proof, the Board may consider any relevant factors, including, but not limited to, the following:

- a. the moral fitness of the Respondent at the time of the application to terminate the suspension;
- b. the demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
- c. the extent of Respondent's rehabilitation;

- d. the seriousness of the original misconduct;
- e. conduct subsequent to the indefinite suspension;
- f. the time, which has elapsed since the surrender of his license;
- g. the Respondent's character, maturity, and experience at the time of the surrender of her license; and
- h. the Respondent's competence to practice pharmacy as of the time of the application for licensure.

As part of any future application for licensure, the Board shall have the right to require Respondent to submit to any physical and/or mental tests or examinations with providers of the Board's choice and totally at Respondent's expense. If the Board elects to have such testing performed, the Respondent shall authorize the release of all information related to such tests or examinations to the Board or its representative. Should the Board determine to relicense Respondent, the Board may place such conditions on Respondent's right to practice pharmacy, as the Board may deem, in its discretion, necessary. The Respondent further agrees not to seek relicensure in Kansas for a period of three years from the effective date of the final agency order contemplated hereby.

**B. TERMINATION OF REQUIREMENTS OF PRIOR STIPULATION AND FINAL AGENCY ORDER.** The Final Agency Order contemplated hereby shall have the additional effect of terminating the requirements of the Final Agency Order entered by the Board on September 21, 2005, including the requirement that the Respondent enter into and comply with the requirements of the Kansas Pharmacy Impaired Provider Program.

6. Applicant agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and its attorney regarding the investigation

which led to this Stipulation and all information discovered during the pendency of this matter may be disclosed to and considered by the Board as part of the presentation and consideration of this Stipulation and Final Agency Order and the Final Order provided for herein, with or without the presence of the Applicant 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 Applicant 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 a 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 Action is approved by the Board and the Final Order provided for herein is entered by the Board. The Applicant acknowledges that the approval of the Board's attorney or the Board's Investigation Member shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Final Agency Action or the Final Order provided for herein.

8. The Applicant 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 Applicant 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 Applicant acknowledges that she has the following rights:

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

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 Applicant 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 him to those provided for herein. The Applicant 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 Applicant acknowledges that she enters into this Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of her choosing or an opportunity to do so. The Applicant 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.

13. 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.

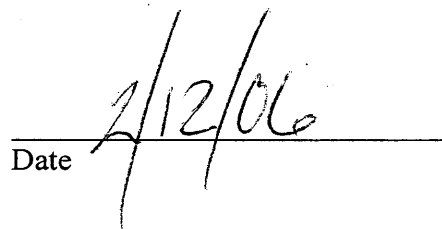
14. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record in the custody of the Board.

15. 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.

16. The Applicant 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 L. Billingsley, its Executive Director at Landon Office Building, 900 SW Jackson, Room 560, Topeka, KS 66612-1231. The Applicant hereby waives those rights.

AGREED AND ACCEPTED BY:

  
JILL C. CARRELL, R.Ph.

  
Date

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JOANNE GILSTRAP, R.Ph./  
Investigation Member

2/22/06  
Date

APPROVED BY:

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Date

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Randall J. Forbes, #09089  
FRIEDEN, HAYNES & FORBES  
555 S. Kansas Avenue, Suite 303  
Topeka, KS 66603  
(785) 232-7266

2.16.06  
Date

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of )  
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JILL C. CARRELL, R.Ph. )  
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Kansas License No. 1-14051 )

Case No. 05-38

**FINAL ORDER**

Upon motion duly made, seconded and passed, the Kansas Pharmacy Board (the "Board") approves and accepts the within Stipulation and Final Agency Order and incorporates the provisions thereof as the Final Order of the Board.

ENTERED AND EFFECTIVE this 16 day of MARCH, 2006.

By:

Merlin McFarland, R.Ph.  
President

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing STIPULATION AND FINAL AGENCY ORDER was served by depositing same in the United States mail, postage prepaid, this 16 day of March, 2006 addressed to:

Randall J. Forbes  
FRIEDEN, HAYNES & FORBES  
555 S. Kansas Avenue, Suite 303  
Topeka, KS 66603

Jill C. Carrell, R.Ph.  
2601 W. 10<sup>th</sup> Street  
Leawood, KS 67206

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Debra L Billingsley / /  
Executive Director  
KANSAS PHARMACY BOARD