

BEFORE THE  
KANSAS STATE BOARD OF PHARMACY  
Landon State Office Building, Room 513  
Topeka, Kansas 66612  
785/296-4056

In The Matter }  
 }  
of } Case No.  
 }  
WALGREENS #3058, }  
Registered Pharmacy #2-09052, }  
Respondent }  
\_\_\_\_\_ }

CONSENT AGREEMENT AND ORDER

Now on this 24<sup>th</sup> day of June, 1999, the above-captioned matter comes before the Kansas State Board of Pharmacy (Board) by agreement of Walgreens #3058, (Registrant) and the Kansas State Board of Pharmacy for the purpose of settling the above-captioned case.

Registrant hereby acknowledges the following:

1. Walgreens #3058 is a registered pharmacy within the meaning of the Kansas Pharmacy Act, K.S.A. 65-1625 et seq. and amendments thereto.
2. On or about March 9, 1999, the Board's investigative committee received a report of information concerning Registrant's conduct alleging Registrant may have violated statutes and regulations governing the practice of pharmacy, to wit: the loss of one hundred (100) doses of lortab 7.5 mg. (hydrocodone) a controlled substance.
3. The Board's investigative committee conducted an investigation concerning Registrant's alleged violation of statutes and regulations.
4. During the investigation, Registrant was informed of the reported information, and was given the opportunity to respond to the allegations, and did respond to the allegations.
5. As a result of the investigation, the Board's investigative committee has determined that one hundred (100) doses of lortab 7.5 mg (hydrocodone) were lost or misplaced.
6. As a result of the investigation, the Board's investigative committee determined that

reasonable grounds exist to believe the Registrant has violated K.S.A. 65-1627(d)(1) as defined by 21 CFR 1301.71 and implemented pursuant to K.A.R. 68-20-15a.

HOWEVER, Registrant and the Boards investigative committee mutually desire to enter into the Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations.

WHEREFORE Registrant waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas administrative procedure act in relation to this matter.

WHEREFORE Registrant waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas act for judicial review in relation to this matter.

WHEREFORE Registrant consents to:

(a) Pay a Five Hundred (\$500.00) administrative fine which is to be paid in full upon on the date this Consent Agreement and Order is accepted by the Kansas State Board of Pharmacy..

(b) This Consent Agreement and Order constitutes the entire agreement between the Registrant and may be modified or amended only by written agreement signed by the parties.

(c) Registrant shall be responsible for all costs incurred in satisfying the terms of the Consent Agreement and Order.

(d) Notification of the Consent Agreement and Order shall be provided to another jurisdiction's licensing board if the Registrant is also licensed, registered or certified in another jurisdiction.

(e) This Consent Agreement and Order is reportable to state and federal licensing agencies and applicable professional associations.

(f) Evidence of Registrant's willful failure to comply with any of the conditions will result in a hearing, with notice and opportunity to be heard, to determine whether Registrant has in fact willfully failed to comply with any conditions. Upon determination at such hearing that Registrant has willfully breached, violated or failed to comply with any condition, Registrant understands and agrees that the license shall be revoked.

(g) Registrant acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional status which would inhibit compliance with conditions. In such event, a designee of the Board is authorized to modify or amend this Consent Agreement and

Order in writing.

(h) The board will issue, and the registrant will accept, a letter of reprimand for the above infractions of the Kansas Pharmacy statutes, rules and regulations.

(i) A representative of the registrant shall appear in person before the Kansas State Board of Pharmacy to respond to any questions or comments that may be posed by the board.

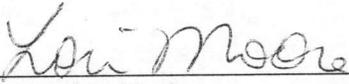
WHEREFORE Registrant consents to the submission of this Consent Agreement and Order to the Kansas State Board of Pharmacy, and understands that upon approval of the Board, this Consent Agreement and Order becomes a final order of the Board.

WHEREFORE Registrant agrees that all information in the possession of the Board or its attorney regarding the complaint which led to this disciplinary action, the investigation of the complaint 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 Consent Agreement and Order and the Final Order provided for herein, with or without the presence of the registrant or the registrant's attorney. In the event that this Consent Agreement and 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 Consent Agreement and 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.

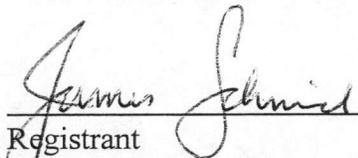
WHEREFORE the Board agrees that so long as registrant complies with the above conditions that the Board will not initiate further disciplinary action against Registrant in relation to violation of K.S.A. 65-1625 et seq regarding this matter.

WHEREFORE the provisions above are consented to and are hereby made the final order of the Kansas State Board of Pharmacy which become effective on the date indicated in the below Certificate of Service.

IT IS SO ORDERED.

  
\_\_\_\_\_  
Lori Moore, Chair  
Kansas State Board of Pharmacy

APPROVED AND CONSENTED TO:

  
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Registrant  
Walgreens Pharmacies  
James Schmid  
National Director of Pharmacy Operations  
Walgreens, MS #2147  
Deerfield, IL 60015

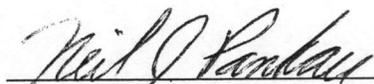
6/21/99  
\_\_\_\_\_  
(Date)

SUBMITTED AND APPROVED BY:

  
\_\_\_\_\_

WM. SCOTT HESSE  
Assistant Attorney General  
2<sup>nd</sup> Fl., Judicial Center  
Topeka, KS 66612  
785/296-2215

6/24/99  
\_\_\_\_\_  
(Date)

  
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Neil J. Pankau  
Attorney at Law  
Walgreens, MS#2255  
Corporate Offices  
200 Wilmot Rd.  
Deerfield, IL 60015

6.21.99  
\_\_\_\_\_  
(Date)

BEFORE THE STATE BOARD OF PHARMACY  
OF THE STATE OF KANSAS



IN RE: THE MATTER OF

WALGREENS PHARMACY # 3058  
Registration No. 2-08943  
1306 N. Woodlawn  
Wichita, KS 67208

STIPULATION OF FINDING OF FACT AND ORDER

This matter comes before the State Board of Pharmacy for the State of Kansas this 30th day of January, 1998.

The State Board of Pharmacy appears by Barry Sarvis, President and Presiding Officer; Lori Moore, Vice-President; Dan Katzer, Pharmacist; Vicki Schmidt, Pharmacist; Karla Kneebone, Pharmacist; and Dr. Dan Upson, Consumer Representative. Also appearing are Larry Froelich, Executive Secretary, and the attorney for the Board, Dana W. Killinger. Walgreens Pharmacy #3058, Registration No. 2-08943 appears by William Fortenbury, Attorney; Thomas L. Simons, Attorney; Robert Kahl, District Manager; Michael Gresham, Loss Prevention Agent for Walgreens, and also entering his appearance for Walgreens is Thomas Stein, Attorney.

Walgreen's Pharmacy # 3058 states that it has been advised of it's procedural rights under the Pharmacy Practice Act and Administrative Procedure Act, wherein Counsel for the Board advised Walgreens Pharmacy # 3058 of it's right to a formal hearing, that it has a right to be represented

by counsel, call witnesses and other procedural rights. Counsel further advised Walgreens Pharmacy # 3058 of the statutory sections of the law which were allegedly violated and the statute giving the Board jurisdiction in the matter. Whereupon Walgreens Pharmacy # 3058 waived it's right to Formal Hearing.

Walgreens Pharmacy # 3058 further states that no issue of fact exists and wishes to stipulate the following findings of fact and accepts the order of the State Board of Pharmacy, to-wit:

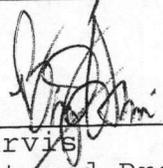
1. That Walgreens Pharmacy # 3058 is a duly registered pharmacy in the state of Kansas, Registration No. 2-08943, located at 1306 N. Woodlawn, Wichita, Kansas 67208.
2. That said pharmacy is owned by Walgreen Company, Corporate Offices, 200 Wilmot Road, Deerfield, Illinois 60015.
3. That Keith Hayden is a licensed pharmacist in the State of Kansas having License No. 1-09560 and was employed by Walgreens Pharmacy # 3058 during 1997 as the Pharmacist in Charge of said pharmacy.
4. That during the year 1997 and prior years large quantities of controlled substances were being removed from said Walgreens Pharmacy # 3058 illegally by its employees at said pharmacy. Walgreens had the ability to monitor

said controlled substances and should have known of said diversion. A violation of K.A.R. 68-20-15a(a) as directed by 21 C.F.R. 1301.71(a) and relevant factors to be considered are those listed in 1301.71(b)(11)&(14).

That the State Board of Pharmacy for the State of Kansas, pursuant to K.S.A. 65-1627(d)(1) has jurisdiction and power to revoke, suspend or place on probation and/or pursuant to K.S.A. 65-1658, fine said Walgreen Company.

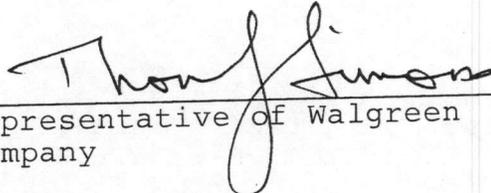
IT IS THEREFORE ORDERED that Walgreen Pharmacy #3058 be placed on probation for Two (2) years as of the date of the signing of this stipulation by the Presiding Officer. That during said probation, the Pharmacy shall furnish monthly "Item Movement Reports" and "Suspicious Controlled Substance Drug Order Reports" for all controlled substances. These reports shall be due Fifteen (15) days after the end of each month. These reports may be modified by agreement with the Board Executive Secretary and Walgreens.

Dated this 26th day of February, 1998.

  
\_\_\_\_\_  
Barry Sarvis  
President and Presiding Officer  
State Board of Pharmacy  
for the State of Kansas

I, Thomas L. Simons, Esq.,  
representative of Walgreen Company, have hereby read the

foregoing Stipulation and Order and fully understand the violations to which I am stipulating to and understand the terms of the Stipulation.

  
\_\_\_\_\_  
Representative of Walgreen  
Company

PREPARED BY:

  
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Dana W. Killinger  
1505 SW Harrison St.  
Topeka, KS 66612-1811  
(785) 232-9616  
Attorney for the State  
Board of Pharmacy  
for the State of Kansas

APPROVED:

\_\_\_\_\_  
William Fortenbury  
9300 Olive Blvd.  
St. Louis, MO 63132  
(314)569-2002  
Attorney for Walgreen Company