

BEFORE THE KANSAS BOARD OF PHARMACY

Received
JAN 8 2015
KANSAS STATE
Board of Pharmacy

In the Matter of)
)
ANKEYTA WHITE,)
Pharmacy Technician)
)
Kansas Registration No. 14-11873)

Case No. 14-21

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and Ankeyta White ("Respondent") as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden, Unrein & Forbes, 1414 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by her attorney, Kurt James, 115 SE 7th Street, Topeka, KS 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.*, (the "Act") including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas registration to practice as a pharmacy technician.

3. The Respondent is presently entitled to engage in the practice of a pharmacy technician by reason of the Board having issued her Kansas registration number 14-11873 ("Kansas Registration"). At all times relevant hereto, the Respondent has held a current registration to engage in the practice as a pharmacy technician in the State of Kansas.

4. The Board's Investigation Member has received certain information, investigated and determined that there are reasonable grounds to believe that Respondent has committed an act or acts in violation of the Act that would subject her pharmacy technician registration to discipline pursuant to K.S.A. 65-1663 (e)(1).

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5. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board, and upon motion duly made, seconded and passed, the Board finds:

A. On March 5, 2014 the Respondent was randomly chosen by her employer, K-Mart Pharmacy, to submit to a drug test.

B. The Respondent never supplied the sample required for the drug test and was terminated from her employment for failure to submit to the random drug test. The Respondent's supervisor reported to the Board that Respondent told him she did not want to take the drug test because she would test positive for meth.

C. On March 14, 2014, the Board Investigation Member issued a Summary Order revoking Respondent's Kansas Registration. Respondent made a timely request for a hearing.

D. On April 25, 2014, the Board's Investigation Member issued an Emergency Order of Suspension, suspending Respondent's Kansas Registration.

Upon motion duly made, seconded and passed, the Board finds and concludes that Respondent's conduct, as described above, violates the Act and such conduct warrants the imposition of appropriate disciplinary action against Respondent's Kansas Registration under the provisions of K.S.A. 65-1663(e)(1) and pursuant to K.S.A. 65-1627 (a)(3), as defined by K.S.A. 65-1626b (ccc)(5).

6. The Respondent agrees and consents and the Board finds concludes and orders that the following disposition is just and appropriate under the circumstances:

A. **RANDOM DRUG SCREENING PROGRAM.** Within 30 days of the effective date of the Consent Order contemplated hereby, Respondent shall make arrangements,

through the Kansas Pharmacists Association Committee on Impaired Pharmacy Practice Program (“CIPP”), to participate, at Respondent’s expense, in a program of random fluid bodily drug screens (the “Drug Screen Program”). Respondent shall timely participate in the Drug Screen Program for a period of no less than 365 days. During the entire period, Respondent shall remain in strict compliance with the requirements of the Drug Screen Program. The Respondent shall authorize CIPP and any provider of the Drug Screen Program to provide full and complete documentation and information regarding the Respondent’s participation in the Drug Screen Program and Respondent’s timely providing of samples and the results of the drug screens performed as part of the Drug Screen Program.

B. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order she must, and the Board further orders the Respondent to:

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 pharmacies;
3. *Advise the Board’s Executive Secretary within 10 days of being charged with any crime.*

7. Respondent agrees that all information in the possession of the Board’s Investigation Member, its staff, its investigators and or its attorney regarding the investigation which lead 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 Consent Order provided for herein, with or without the presence of the Respondent or her attorney. In

the event that this Stipulation and Consent Order provided for herein is not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Stipulation and Consent 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.

8. The stipulations contained herein shall not become binding until this Stipulation and Consent Order is approved by the Board. The Respondent acknowledges that the approval of the Board's Investigation Member or its attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Consent Order provided for herein.

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

10. 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.

11. 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 or its designee making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing; and

(d) To take advantage of all applicable provisions of the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.* and the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

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 Consent Order provided for herein.

12. The Respondent acknowledges that she enters into this Stipulation and Consent Order freely and voluntarily after consultation with counsel of her choosing. The Respondent further acknowledges that she has read this Stipulation and Consent Order in its entirety, that she understands its legal consequences and that she agrees that none of its terms are unconscionable, arbitrary or capricious.

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

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

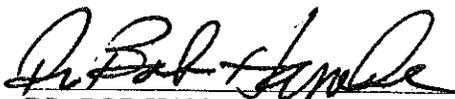
15. Upon approval of the Stipulation and Consent Order by the Board, it shall be a public record in the custody of the Board.

16. This Stipulation and Consent Order shall become effective on the day it is approved and accepted by the Board by way of signature of the Board's authorized representative.

17. The Respondent acknowledges that she has been advised by the Board that she would have the right within 15 days after service of the Consent Order provided for herein to file a petition for reconsideration with the Board and the right within 30 days after service of the Consent Order provided for herein to file a petition for judicial review in the District Court of Shawnee County, Kansas in accordance with the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.* and to serve such a petition for judicial review on the Kansas Board of Pharmacy by serving Debra Billingsley, its Executive Secretary at 800 SW Jackson St., Suite 1414, Topeka, KS 66612. The Respondent hereby waives those rights.

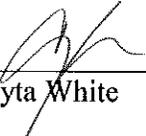
ENTERED AND EFFECTIVE this 15th day of January, 2014.

KANSAS BOARD OF PHARMACY

By: 
DR. BOB HANEKE
President

[Signatures of Agreement and Approval on Following Page]

AGREED AND APPROVED BY:



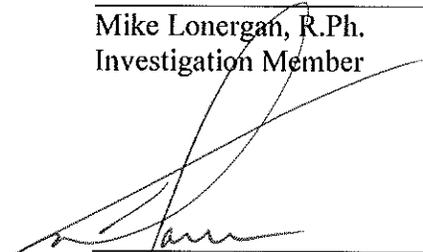
Ankeyta White

10-16-14

Date

Mike Lonergan, R.Ph.
Investigation Member

Date



Kurt James
115 SE 7th Street
Topeka, KS 66603
Counsel for Respondent

Jan 7, 2015

Date



Randall J. Forbes, KS#09089 MO#64335
FRIEDEN, UNREIN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
(785) 354-1100

1/14/2015

Date

Counsel for the Kansas Board of Pharmacy

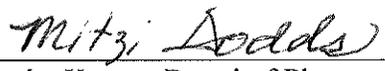
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing STIPULATION AND CONSENT ORDER was served by depositing same in the United States mail, postage prepaid, this 26 day of January, 2015, addressed to:

Randall J. Forbes
FRIEDEN, UNREIN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604

Ankeyta White
3719 SW 30th Street
Topeka, KS 66614

Kurt James
115 SE 7th Street
Topeka, KS 66604



For the Kansas Board of Pharmacy