

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.
	}	
LUISA GIANNANGELO.	}	
Registered Pharmacist #1-12686,	}	
Licensee	}	
_____	}	

CONSENT AGREEMENT AND ORDER

Now on this 26th day of August, 1999, the above-captioned matter comes before the Kansas State Board of Pharmacy (Board) by agreement of Luisa Giannangelo, (Licensee) and the Kansas State Board of Pharmacy for the purpose of settling the above-captioned case.

Licensee hereby acknowledges the following:

1. Freeds Pharmacy 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 May 12, 1999, the Board received a report from the Kansas State Department of Health and Environment of information concerning Licensee's conduct alleging Licensee may have violated statutes and regulations governing the practice of pharmacy, to wit:
 - (a) The failure to fill all prescriptions in strict conformance with any directions of the prescribing physician by failing to name the correct prescribing physician on the label in violation of K.S.A. 65-1637(a).

(b) The failure to perform the judgmental function of pharmacists to check for drug interactions or reactions between prescription medication in violation of K.S.A. 65-1642(d)(2).

(c) The failure to perform the judgmental function required of pharmacists by delegating the judgmental function of reading and interpreting drug interactions or reactions between prescription medicines to a pharmacy technician in violation of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-2-20(a).

(d) The licensee failed to exercise proper clinical judgment in the filling of the prescription of Edward Hensley in violation of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-9-1(b)(1).

(e) The licensee failed to properly place the name of Dr. Wade Graedert on the label of a bottle of controlled substances in violation of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-2020(d).

3. The Board conducted an investigation concerning Licensee's alleged violation of statutes and regulations.

4. During the investigation, Licensee was informed of the reported information, and was given the opportunity to respond to the allegations.

6. As a result of the investigation, the Board determined that reasonable grounds exist to believe, and the Board hereby alleges that, the Licensee has violated K.S.A. 65-1637(a); K.S.A. 65-1642(d)(2); K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-2-20(a) and K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-9-1(b)(1) as follows:

(a) The licensee failed to fill all prescriptions in strict conformance with any directions of the prescribing physician by failing to name the correct prescribing physician on the

label of a prescription for Edward Hensley.

(b) The licensee failed to perform the judgmental function of pharmacists to check for drug interactions or reactions between prescription medications for Edward Hensley.

(c) The licensee failed to perform the judgmental function required of pharmacists by delegating the judgmental function of reading and interpreting drug interactions or reactions between prescription medicines to a pharmacy technician.

(d) The licensee failed to exercise proper clinical judgment in the filling of the prescription of Edward Hensley.

(e) The licensee failed to properly place the name of Dr. Wade Graedert on the label of a bottle of controlled substances

6. The Licensee denies the alleged violations.

HOWEVER, Licensee and the Board mutually desire to enter into the Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations, and subject to the approval of this Consent Agreement and Order by the Board, the parties agree as follows:

WHEREFORE Licensee 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 Licensee 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 Licensee denies the allegations set forth herein and by entering into this Consent Agreement and Order shall not be deemed to admit, and does not hereby admit, the

violations alleged herein or any other violation of law. This Consent Agreement and Order is entered into by Licensee to avoid the expense, inconvenience and uncertainty of adjudicative proceedings and litigation.

WHEREFORE Licensee consents to:

- (a) A One Thousand (\$1,000.00) administrative fine.
- (b) Retraining on company policy with regard to the use of pharmacy technicians and their function under Kansas law within thirty days of the date of acceptance of this Consent Agreement and Order by the Board.
- (c) This Consent Agreement and Order constitutes the entire agreement between the Licensee and may be modified or amended only by written agreement signed by the parties.
- (d) Licensee shall be responsible for all costs incurred in satisfying the terms of the Consent Agreement and Order which shall not exceed \$ 0.
- (e) Notification of the Consent Agreement and Order shall be provided to another jurisdiction's licensing board if the Licensee is also licensed, registered or certified in another jurisdiction.
- (f) This Consent Agreement and Order is reportable to state and federal licensing agencies and applicable professional associations.
- (g) Evidence of Licensee'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 Licensee has in fact willfully failed to comply with any conditions. Upon determination at such hearing that Licensee has willfully breached, violated or failed to comply with any condition, Licensee understands and agrees that the license shall be revoked.

(h) Licensee 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.

(i) The licensee shall appear in person before the Kansas State Board of Pharmacy on August 26, 1999 to respond to any questions or comments that may be posed by the Board.

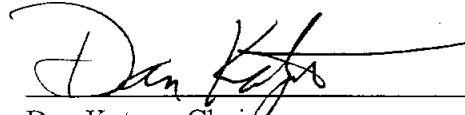
WHEREFORE Licensee consents to the submission of this Consent Agreement and Order to the Kansas State Board of Pharmacy, and understands that upon approval of the Board, this Consent Agreement and Order becomes a final order of the Board.

WHEREFORE Licensee 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 Licensee or the Licensee's attorney.

WHEREFORE the Board agrees that so long as Licensee complies with the above conditions that the Board hereby releases and will not initiate further disciplinary action or any other claims, demands or causes of action against Licensee in relation to the alleged violations of K.S.A. 65-1625 et seq regarding this matter or the death of Edward Hensley.

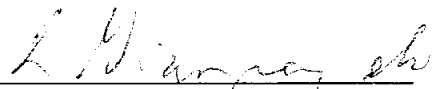
WHEREFORE the provisions above are consented to and are hereby made the final order of the Kansas State Board of Pharmacy which become effective on the date indicated in the below Certificate of Service.

IT IS SO ORDERED.

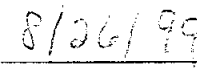


Dan Katzer, Chair
Kansas State Board of Pharmacy

APPROVED AND CONSENTED TO:

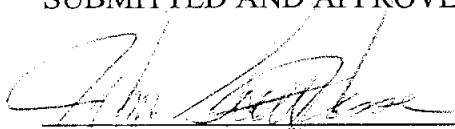


Licensee



Date

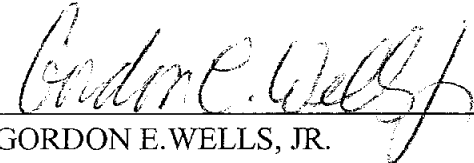
SUBMITTED AND APPROVED BY:



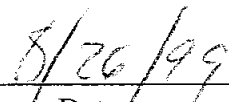
WM. SCOTT HESSE
Assistant Attorney General
2d Floor, Judicial Center
Topeka, Kansas 66612
785/296-2215



Date



GORDON E. WELLS, JR.
Lathrop and Gage
10501/40 Corporate Woods
9401 Indian Creek Parkway
Overland Park, Kansas 66210
Attorney for Licensee



Date

Certificate of Service

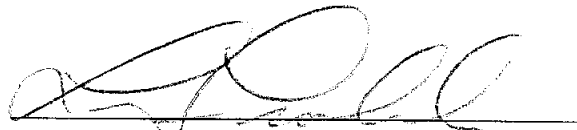
This is to certify that on the 26 day of August, 1999, a true and correct copy of the above and foregoing Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Wm. Scott Hesse
Assistant Attorney General
2d Floor, Judicial Center
Topeka, Kansas 66614

Freeds Pharmacy
3975 N. Woodlawn Court
Bel Aire, Kansas 67220

Luisa Giannangelo R. Ph.
1818 N. Shefford Circle
Wichita, KS 67212

Gordon E. Wells, Jr.
Lathrop and Gage
10501/40 Corporate Woods
9401 Indian Creek Parkway
Overland Park, Kansas 66210

A handwritten signature in black ink, appearing to read "Gordon E. Wells, Jr.", written over a horizontal line.

For the Kansas State Board of Pharmacy