

Filed By

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KANSAS STATE BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)	
)	Case No. 13-161
GLOBAL MEDICAL DIRECT)	
<u>Kansas Registration No. 2-09970</u>)	

STIPULATION AND FINAL AGENCY ORDER

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

1. The Board is the Kansas agency vested with the authority to carry out and enforce the provisions of the Kansas Pharmacy Act, K.S.A. 65-1625 *et seq.*, including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas registrant's ability to operate a pharmacy in Kansas.

2. The Respondent is presently entitled to engage in the operation of a pharmacy in the State of Kansas by reason of the Board having issued them Kansas registration number 2-09970. At all times relevant hereto, the Respondent has held a current license to engage in the operation of a pharmacy in the State of Kansas.

3. 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 that would justify discipline of the Kansas pharmacy registration pursuant to the Kansas Pharmacy Act, K.S.A. 65-1625 *et seq.*

Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board that Global Medical Inc. the owner of Global Medical Direct was charged in the United States District Court for the Eastern District of Louisiana for submitting or causing to be submitted claims for payment to the Medicare Program ("Medicare"), Title XVIII

of the Social Security Act, 42, U.S.C. §§ 1395-1395kkk-l and the TRICARE Program, 10 U.S.C. §§ 1071-1110a.

That the government contended that it had certain civil claims against Global arising from the submission of claims for the provision of diabetic supplies that were tainted by kickbacks paid to various Insurance companies in violation of the Anti-Kickback Statute ("AKS"), 42 U.S.C. §§ 1320a-7b(b)(1)-(2).

That Global Medical entered into a Consent Agreement in the United States District Court settling the matter.

The Board finds and concludes that Respondent's conduct, as described above, violates various provisions of the Pharmacy Act and regulations promulgated pursuant to the Act and is grounds for disciplinary action against their permit to operate a pharmacy in the State of Kansas pursuant to K.S.A. 65-1627 (e)(1); and K.S.A. 65-1627 (e)(2).

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

Revocation of the pharmacy permit.

5. Respondent 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 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 his 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 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.

6. 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 Respondent 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.

7. 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. 65-1625 *et seq.* is constitutional on its face and as applied in this case.

8. 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.

9. The Respondent acknowledges that he 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 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 him 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.

10. The Respondent acknowledges that he enters into this Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of his choosing or an opportunity to do so. The Respondent further acknowledges that he has read this Stipulation and Final Agency order in its entirety, that he understands its legal consequences and that he agrees that none of its terms are unconscionable, arbitrary or capricious.

11. 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.

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

13. 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.

14. The Respondent acknowledges that he has been advised by the Board that he 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, 800 SW Jackson Street, Suite 1414, Topeka, KS 66612. The Respondent hereby waives those rights.


AGREED AND ACCEPTED BY:



Global Medical Direct

1/23/14

Date



CHAD ULLOM, R.Ph.
Investigation Member

2/18/14

Date

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
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GLOBAL MEDICAL DIRECT) Case No. 13-161
Kansas Registration No. 2-09970)

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 28th day of FEBRUARY, 2014.

KANSAS PHARMACY BOARD

By:



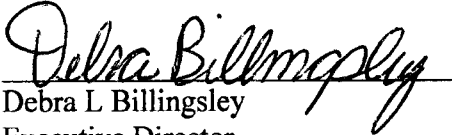
DAVID R. SCHOECH, R.Ph.
President

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 3 day of March, 2014 addressed to:

Global Medical Direct
14309 W 95th St.
Attn: Jeffrey Hinchey
Lenexa, KS 66215

Mark L. Thompson
President and CEO
Concordia Healthcare, Inc.
277 Lakeshore Road East, Ste 302
Oakville Ontario L6J1H9


Debra L Billingsley
Executive Director
KANSAS PHARMACY BOARD