

BEFORE THE KANSAS STATE BOARD OF PHARMACY

IN THE MATTER

OF

Pharmacy Corporation of America  
d.b.a. PharMerica, 8030 Reeder Rd,  
Lenexa, KS 66214

Registered Pharmacy, #2-09794

Respondent.

CASE NO. 02 - 06

Pursuant to K.S.A.  
Chapter 77

STIPULATION AND FINAL ORDER

Now on this 30 day of June, 2003, the above-captioned matter comes before the Kansas State Board of Pharmacy (Board) by agreement of Pharmerica Corporation of America, d.b.a. Pharmerica (Respondent) and the Kansas State Board of Pharmacy for the purpose of settling the above-captioned case.

The parties agree as follows:

1. The Kansas State Board of Pharmacy, hereinafter Petitioner or Board, is duly constituted under the laws of the State of Kansas, specifically the Pharmacy Act of the State of Kansas, K.S.A. 65-1625, et seq.
2. Respondent is presently, and at all times relevant to these proceedings, a registered pharmacy within the meaning of the Kansas Pharmacy Act, K.S.A. 65-1625 et seq., having been issued registration number #2-09794, which will expire on 6/30/03.
3. The Board has the express jurisdiction 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 or suspend the registration of any pharmacy registered under the Kansas Pharmacy Practices

Act pursuant to K.S.A.65-1627a. Further, the Board has the express authority to assess civil penalties to registrants in violation of the Kansas Pharmacy Act pursuant to K.S.A. 65-1658.

4. The Board's investigative board member 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 in violation of the Kansas Pharmacy Act, K.S.A. 65-1625, *et seq.*

5. As a result of the investigation, the Board through its investigative board member, determined that reasonable grounds exist to believe that Respondent has committed acts that constitute violations of the Kansas Pharmacy Act as stated in the Petition filed in this matter.

6. Respondent and the Board mutually desire to enter into the Stipulation and final order in lieu of adjudicative proceedings to resolve the report of alleged violations.

7. Respondent 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.

8. Respondent 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.

9. Respondent hereby admits and waives further proof, the factual allegations in the Petition in this matter as contained in Counts 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 32 (paragraphs 102 and 104 only), 33, 34 (paragraphs 108 and 110) only, 35, 36, 38 (paragraphs 120 and 122 only), 39, 40 (paragraphs 126 and 127 only), 41, 43, 45, 47, 48 (paragraphs 150, 151, and 153 only), 49, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, and 61.

10. Respondent hereby admits, and the Board hereby finds, that the factual allegations in the Petition constitute violations of the Kansas Pharmacy Act as stated in the petition, which is attached to this Stipulation and Final Order and made a part thereof.

11. Based on these violations, Respondent consents to, and the Board hereby orders, the following:

- a. that Respondent's registration shall be placed on probation for a period of one year.
- b. that Respondent pay an administrative fine in the amount of ten thousand dollars (\$10,000.00). This fine must be paid within 30 days of entry of this agreement;

14. Respondent agrees that all information in the possession of the Board or 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 Order, with or without the presence of the Respondent or its attorney. In the event that this Stipulation and Final Order are not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Stipulation and Final 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.

15. The stipulations contained herein do not become binding until this Stipulation and Final Order is approved by the Board. The Respondent acknowledges that the approval of the Board's attorney does not constitute the approval of the Board or bind the Board to approve this Stipulation and Final Order provided for herein.

16. Respondent agrees that this Stipulation and Final Order is conformance with Kansas and federal law and the Board has jurisdiction to enter into it and enter the Final Order provided for herein. 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.

17. This Stipulation and Final Order 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.

18. The following statement will be made in the Board's newsletter: "Pharmerica ,8030 Reeder Rd, Lenexa, KS 66214 was disciplined by the Board entering an order assessing an administrative fine in the amount of \$10,000 and one year's probation.

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

WHEREFORE the provisions above are consented to and are hereby made the Final Order of the Kansas Board of Pharmacy for the above-captioned case which becomes effective on the date indicated in the below Certificate of Service.

IT IS SO ORDERED.

AGREED AND ACCEPTED BY:

Pharmacy Corporation of America, d.b.a. PharMerica, 8030 Reeder Rd, Lenexa, KS 66214

by: \_\_\_\_\_

4/23/03  
Date

Kansas Board of Pharmacy

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~~Max Heidrick, Chair~~  
Mike Hurst, President

6/30/03  
Date

APPROVED BY: \_\_\_\_\_

by: \_\_\_\_\_  
Bill Mertz *J*  
Pharmerica Corporation of America \_\_\_\_\_

4/23/03  
Date

by: \_\_\_\_\_  
Steve Phillips' # 14130 *v*  
Assistant Attorney General  
120 S.W. 10<sup>th</sup> Street, Second Floor  
Topeka, Kansas 66612  
785-296-2215

12/24/03  
Date

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 24<sup>th</sup> day of December, 2003, a true and correct copy of the above and foregoing STIPULATION AND FINAL ORDER was sent by United States mail, postage prepaid, to the following:

PharMerica  
8030 Reeder Rd  
Lenexa, KS 66214

Pharmacy Corporation of America  
d/b/a PharMerica  
Attn: William Mertz  
Director, Legal Affairs & Counsel  
175 Kelsey Lane  
Tampa, FL 33619

Pharmacy Corporation of America  
d/b/a PharMerica  
c/o The Corporation Company, Inc.  
515 S. Kansas State Board of Pharmacy  
Topeka, KS 66603

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Debra L. Billingsley  
Executive Director