

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

IN THE MATTER OF SURGERY CENTER
OF SOUTHWEST KANSAS, REGISTERED
PHARMACY #2-09014, Respondent,

Case No. 98- _____

**CONSENT AGREEMENT AND
ORDER**

Now, on this ____ day of January, 1999, the above-captioned matter comes before the Kansas State Board of Pharmacy (the "Board") by agreement of Surgery Center of Southwest Kansas ("Center" or "Licensee") and the Kansas State Board of Pharmacy for the purpose of resolving and settling all legal issues presented by the above-captioned case.

Licensee hereby acknowledges the following:

1. The Center 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 November 1998, the Board reviewed its records and determined the licensee may have violated Kansas statutes or regulations governing the practice of pharmacy by failing to renew its pharmacy registration in a timely manner;
3. The Board conducted an investigation concerning Licensee's alleged failure to timely renew its pharmacy registration.
4. During the investigation, Licensee was informed of the complaint, 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 makes the following factual determinations:

(a) The Board is aware of no evidence that Licensee knowingly or intentionally violated any provisions of the Pharmacy Act.

(b) The Licensee currently possesses a pharmacy registration that is valid under Kansas law.

6. As a result of the investigation, the Board determined that reasonable grounds exist to believe the Licensee has violated K.S.A. 65-1643 and K.S.A. 65-1645.

HOWEVER, to avoid the costs and expenses associated with litigation, and in lieu of adjudicative proceedings, Licensee and the Board mutually desire to enter into the Consent Agreement and Order to resolve the report of alleged violations.

WHEREFORE, by entering into this Consent Agreement and Order, Licensee neither admits any wrongdoing nor violations of law whatsoever, and expressly denies the same.

WHEREFORE, in consideration for the Board's promises and representations contained herein, Licensee waives all rights to an adjudication of facts and law by the Board which could be determined pursuant to a hearing conducted in accordance with the Kansas administrative procedure act in relation to the Board's allegations in this matter.

WHEREFORE, in further consideration for the Board's promises and representations herein, 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, the Board agrees that, other than set forth herein, the Board will neither undertake, nor advocate any further legal action be undertaken, against Licensee with respect to the conduct alleged herein.

WHEREFORE, Licensee consents to:

(a) Payment to the Board of \$715; payment to be made in the form of a certified check, made payable to the Kansas State Board of Pharmacy in the time frame and manner specified by the Board.

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

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

(d) This Consent Agreement and Order may be reportable by the Board to other state and federal licensing agencies and applicable professional associations.

(e) Evidence of Licensee's willful failure to make the payment set forth above may result in a hearing, with notice and opportunity to be heard, to determine whether Licensee has in fact willfully failed to comply with this Consent Agreement and Order. Upon determination at such hearing that Licensee has willfully breached, violated or failed to comply with this Consent Agreement and Order, Licensee understands and agrees that the license may be revoked or suspended.

(f) Licensee acknowledges an affirmative duty to notify the Board within five days of any changes in personal or professional status which would inhibit compliance with this Consent Agreement and Order. In such event, a designee of the Board is authorized to seek written modification or amendment of this Consent Agreement and Order.

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 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 Licensee or Licensee'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, based on the Board's prior consideration of this Consent Agreement and Order, 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, to the extent that such claims are based on the Board's prior consideration of this Consent Agreement and Order.

WHEREFORE, the Board agrees that so long as Licensee complies with the above conditions that the Board will not initiate further disciplinary or other action against Licensee in relation to violation of K.S.A. 65-1625 *et seq.*

WHEREFORE, the Board currently possesses no evidence of any other alleged violations of Kansas law by Licensee.

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

Lori Moore, Chair
Kansas State Board of Pharmacy

APPROVED AND CONSENTED TO:

[Signature]

Licensee
Surgery Center of Southwest Kansas

1/7/99

(Date)

SUBMITTED AND APPROVED BY:

[Signature]

WM. SCOTT HESSE
Assistant Attorney General
2nd Floor
Judicial Center
Topeka, KS 66612
(785) 296-2215

1/7/99

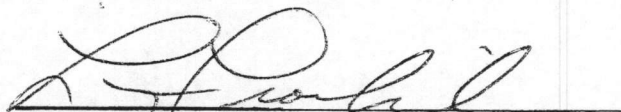
(Date)

CERTIFICATE OF SERVICE

This is to certify that on the 7th day of January, 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
2nd Floor
Judicial Center
Topeka, KS 66614

Neva Harris


For the Kansas State Board of Pharmacy