

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.
 }
 KEITH UNREIN, }
 Licensed Pharmacist, #1-09194 }
 UNREIN PHARMACY, }
 Registered Pharmacy , #2-07989, }
 Respondent }
 _____ }

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 Keith Unrein, (Licensee), Unrein Pharmacy (registrant) and the Kansas State Board of Pharmacy for the purpose of settling the above-captioned case.

Licensee hereby acknowledges the following:

1. Keith Unrein is a licensed pharmacist within the meaning of the Kansas Pharmacy Act, K.S.A. 65-1625 et seq. and amendments thereto. Unrein Pharmacy is a registered pharmacy pursuant to the same act.

2. On or about May 10, 1999, Board Inspector Chris Gassen conducted a routine inspection of Licensee's pharmacy. During the routine inspection the board's inspector determined that Licensee may have violated statutes and regulations governing the practice of pharmacy, to wit:

(a) Failure to be in possession of the most recent edition of *Kansas Pharmacy and Related Laws*, 1999 edition in violation of K.S.A. 65-1627(d)(16) as interpreted by K.A.R. 68-2-12a.

(b) Failure to place Schedule II controlled substances in a locked cabinet or have adequate controls to prevent loss, theft or diversion of the Schedule II controlled substances in violation of 21

CFR 1301.71 through 21 CFR 1301.76 and K.S.A. 65-1627(d)(16) as interpreted by K.A.R. 68-20-15a(a) .

(c) The failure to post the names of all pharmacy technicians on duty at the pharmacy in violation of K.S.A. 65-1642(b)(1).

(d) The failure to keep records and maintain inventories of controlled substances on hand at the pharmacy in violation of 21 CFR 1304.04 and keep those inventories on file for a period of not less than five years in violation of K.S.A. 65-1627 as interpreted by K.A.R. 68-20-16(a).

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, and did admit to the allegations as made by the inspector.

5. As a result of the investigation, the Board makes the following factual determinations:

(a) The licensee or registrant did not have in their possession a current edition of *Kansas Pharmacy and Related Laws*, 1999 edition.

(b) the licensee and registrant maintained stock Schedule II medications located in an unlocked cabinet under the main pharmacy counter.

(c) the licensee and registrant employed a pharmacy technician that ~~answered the telephone~~ ^{filled prescriptions} by taking refill requests while the technician's name was not posted on site at the pharmacy.

(d) the licensee and registrant were unable to provide the pharmacies most recent biennial controlled substances inventory during the May, 1999 inspection.

6. As a result of the investigation, the Board determines that reasonable grounds exist to believe the Licensee has violated K.A.R. 68-2-12a, 21 CFR 1301.71 through 21 CFR 1301.76, K.A.R. 68-20-15a(a), K.S.A. 65-1642(b)(1), 21 CFR 1304.04, K.A.R. 68-20-16(a) and K.S.A. 65-1627. .

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.

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 consents to:

(a) an administrative fine in the amount of Two Thousand One Hundred Dollars (\$2,100.00) and no cents to be paid by the registrant Unrein Drug, Inc..

(b) 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.

(c) Licensee shall be responsible for all costs incurred in satisfying the terms of the Consent Agreement and Order.

(d) 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.

(e) This Consent Agreement and Order is reportable to state and federal licensing agencies and applicable professional associations.

(f) 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.

(g) 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.

(h) The licensee/representative of the registrant shall appear by telephone conference call for the Kansas State Board of Pharmacy on Thursday, August 26, 1999 at 2:30 p.m. 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. 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 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.

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

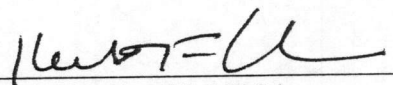
WHEREFORE the provisions above are consented to and are hereby made the final order of the Kansas State Board of Pharmacy which become effective on the date indicated in the below Certificate of Service.

IT IS SO ORDERED.

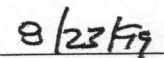


Dan Katzer, Chair
Kansas State Board of Pharmacy

APPROVED AND CONSENTED TO:

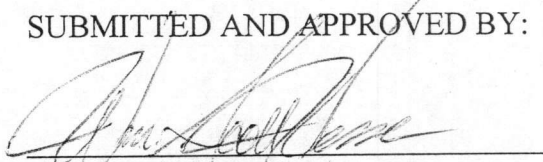


Keith Unrein, #1-09194
for himself and on behalf of
Unrein Drug, Inc., #2-07989



(Date)

SUBMITTED AND APPROVED BY:



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

8/26/99

(Date)

Certificate of Service

This is to certify that on the ^{31st} ~~26th~~ 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

Keith Unrein
Unrein Drug, Inc.
210 W. Mill
Plainville, Kansas 67663



For the Kansas State Board of Pharmacy