

BEFORE THE KANSAS BOARD OF PHARMACY

IN THE MATTER)
)
OF)
)
ALAN CONRADY)
)
LICENSE NO. 09865)

Case No:

STIPULATION AND FINAL AGENCY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and Alan Conrady, R.Ph. (the "Respondent") as follows:

1. The Board is represented herein by its attorney, Steve Phillips, Assistant Attorney General of the Kansas State Attorney General's Office, 120 SW 10th Avenue, Topeka, Kansas 66612-2215. The Respondent is represented herein by his attorney Steve Schwarm.

2. The Board is the Kansas Agency vested with the authority to carry out and enforce the provisions of the Kansas Pharmacy Law, K.S.A. 65-1626 *et seq.*, including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas license to practice pharmacy.

3. The Respondent is presently entitled to engage in the practice of pharmacy in the State of Kansas by reason of the Board having issued ~~her~~^{his} Kansas license number 09865. At all times relevant hereto, the Respondent has

held a current license to engage in the practice of pharmacy in the State of Kansas, subject to a voluntary Consent Agreement dated originally dated April 13, 2003, and later extended by agreement, in which Respondent agreed not to temporarily not practice.

4. Respondent's address is 1441 N. Rock Rd #101, Wichita, KS 67206.

5. Respondent previously entered an Agreed Order with the Board, dated January 30, 1998, in which he pled nolo contendere to allegations of diverting and consuming Controlled Substances without a valid prescription. A copy of the Agreed Order is attached and incorporated by reference as Exhibit 1. The Agreed Order required Respondent to enter the impaired provider program for five years and comply with its terms. Respondent completed said program and was released.

6. Since completion of the impaired provider program and January 30, 2003 Agreed Order, Respondent has at various times diverted and consumed various prescription drugs without a valid prescription, including Schedule III and IV drugs.

7. Respondent hereby admits and waives any further proof in this or any other proceeding that Respondent's conduct, as described in above paragraph #7, violates various provisions of the Pharmacy Act of the State of Kansas pursuant to 65-1625, et seq., and specifically K.S.A. 65-1627(a)(3) [unprofessional conduct - defined by K.S.A. 65-1626(hh)(5) as the "unlawful

possession of drugs and unlawful diversion of drugs to others], K.S.A. 65-1626(hh)(7) [unprofessional conduct - conduct likely to deceive, defraud or harm the public], K.S.A. 65-1627(a)(4) [addiction rendering licensee unfit to practice profession of pharmacy] and K.S.A. 65-1627(a)(13) [self-administration of a controlled substance without a practitioner's prescription order].

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

a. Respondent's license shall be placed on probation for a period of five years, on the following circumstances and conditions:

(i) Respondent shall immediately enter into a new agreement with the Kansas Pharmacy Impaired Provider Program (KIPP) for treatment. Said program shall be for a period of no less than five (5) years from the effective date he reentered the program.

Respondent shall fully cooperate with the recommendations and requirements of the persons managing and implementing the Kansas Pharmacy Impaired Provider Program, the recommendations and requirements of the persons managing and implementing the evaluation and treatment programs recommended or required by KIPP. Respondent shall at all times be in full compliance with the requirements of KIPP. Respondent shall

authorize KIPP to provide compliance documentation and records to the Board.

(ii) Respondent shall not be a Pharmacist in Charge during the term of this Consent Agreement.

(iii) The Respondent shall not work as a pharmacist other than in the presence of another person age 18 or older, except in unusual circumstances beyond Respondent's control, which situation shall be reported to the Board and Respondent's Pharmacist-In-Charge as soon as possible.

(iv) If, during the five year probationary period, the Board's Investigative Member has reasonable grounds to believe that Respondent has again diverted or consumed prescription drugs without a prescription, the Board's Investigative Member will issue a summary order indefinitely suspending Respondent's license. In the event of the issuance of a summary order, and subsequent timely request by Respondent for a KAPA hearing on the summary order, the issues to be addressed at such hearing shall be limited solely to: (1) whether the Respondent committed the violations believed by the Board to have occurred, and (2) what disciplinary sanctions

should be imposed in addition to the summary lifting of the stay of suspension.

b. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Final Agency Order he must:

(i) Comply fully with this Stipulation and Final Agency Order;

(ii) Comply fully with the Kansas Pharmacy Act, the Board's rules

and regulations and all state and federal laws relating to Kansas pharmacists.

9. 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 prior to the Board meeting and as part of the presentation and consideration of the proposal of settlement in the forms of this Stipulation and Final Agency Order and the Final Order provided for herein, with or without the present of the Respondent and 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 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.

10. The stipulations contained herein shall not become binding unless 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 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.

11. 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. 65-1626 *et seq.* is constitutional on its face and as applied in this case.

12. 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

13. The Respondent acknowledges that he has the following rights:

- a. To have formal notice of charges served upon her;
- 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 her to these 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.

14. The Respondent acknowledges that he enters into this Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of her choosing. 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.

15. Time is of the essence to this Stipulation and Final Agency Order. Respondent acknowledges and agrees that any violation of this Stipulation and

Final Agency Order shall constitute a willful violation of a lawful Board order and grounds for further disciplinary action against her. The pendency of any disciplinary action arising out of an alleged violation of this Stipulation and Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Final Agency Order.

16. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

- a. Adverse Action Classification: 1125 Probation of License
- b. Basis for Action: 10 Unprofessional Conduct

17. The following statement will be made in the Board's newsletter: Alan Conrady, R.Ph of Wichita was disciplined by the Board by being placed on probation for five years subject to conditions.

18. 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.

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

20. 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.

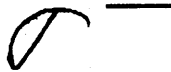
21. The Respondent acknowledges that he has been advised by the Board that he would have the right within 15 days after service of the Final Order provided for herein to file a petition for reconsideration with the Board and the right within 30 days after service of the final order provided for herein 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 Susan Linn, its Executive Secretary. The Respondent hereby waives those rights.

22. Respondent acknowledges that notification of the Consent Agreement and Order, and the order of revocation, shall be provided to licensing clearing house and any other jurisdictions where Respondent is currently licensed as a revocation. In the event that Respondent applies for licensure within another state within 4 years from date of this order, it shall be reported as a revocation. After 4 years from the date of this order, the disposition of this case shall be reported to other jurisdictions as a voluntary acceptance of licensure in lieu of discipline. Notwithstanding any other

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

APPROVED AND CONSENTED TO:

Alan Conrady



6/37/03
(date)

provision of this document, the original of this document shall be kept in the Board's agency file and shall be considered an "open record" and its contents may be disclosed upon request.

23. Respondent acknowledges that the Consent Agreement and Order constitutes the entire agreement between Respondent and the Board, and may be modified or amended only by written agreement signed by Respondent and the Board or a designee of the Board, except as otherwise provided in the Consent Agreement and Order.

WHEREFORE Respondent consents to the submission of the Consent Agreement and Order to the Kansas Board of Pharmacy and understands that upon approval of the Board, the Consent Agreement and Order becomes a Final Order of the Board.

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

APPROVED AND CONSENTED TO:

Alan Conrady

(date)

APPROVED AS TO FORM AND SUBSTANCE:

(
Steve Schwarm
Attorney for Respondent
Alan Conrady

063003

(date)

Steve Phillips
Assistant Attorney General

6/30/03

(date)

BEFORE THE KANSAS PHARMACY BOARD

In the Matter of)

ALAN CONRADY, R.PH.)
Kansas License No. 09865)
_____)

Case No.

FINAL ORDER

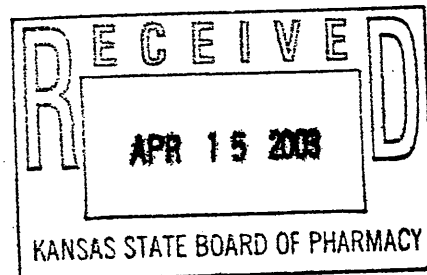
Upon motion duly made, seconded and passed, the Kansas Pharmacy Board (the "Board") approves and accepts the within Stipulation and Final Agency Order and incorporates the provisions thereof as the Final Order of the Board.

ENTERED AND EFFECTIVE this 30 day of June, 2003.

KAN _____

By: _____

Mike Hurst, R. Ph.
Acting President & V.P.



CONSENT AGREEMENT

THIS CONSENT AGREEMENT is entered into this 13 day of APRIL, 2003
by and between Alan Conrady, R.Ph., License # 09865 (the "Licensee") and the Kansas Board of
Pharmacy (the "Board").

WITNESSETH:

WHEREAS, the Licensee presently holds a license to practice pharmacy in the State of
Kansas issued by the Board; and

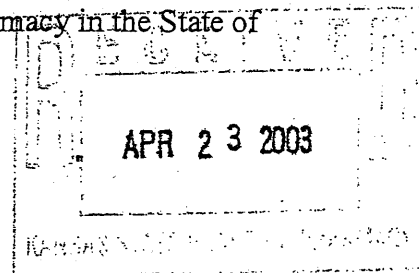
WHEREAS, the Board is the state agency empowered to enforce the Kansas Pharmacy
Act, K.S.A. 65- 1625, et seq. (the "Act"), including the use of disciplinary actions to suspend,
revoke or limit the licenses of Kansas pharmacists who violate the Act; and

WHEREAS, the Board has received information regarding Licensee's diversion of
hydrocodone and carisprodol while working as a pharmacist at K-Mart Pharmacy in Wichita,
Kansas which would constitute probable cause to believe there is a basis for the Board to take
disciplinary action against the Licensee and his license to practice pharmacy in Kansas; and

WHEREAS, the Board is willing to temporarily withhold filing an emergency petition to
revoke, suspend or otherwise limit the Licensee's Kansas license in return for certain agreements
by the Licensee as detailed herein.

THEREFORE, for good and valuable consideration the Licensee and the Board agree as
follows:

1. The Board will temporarily withhold filing an emergency petition to revoke,
suspend or otherwise limit the Licensee's Kansas license to practice pharmacy in the State of
Kansas based upon the Licensee's agreement to do the following:



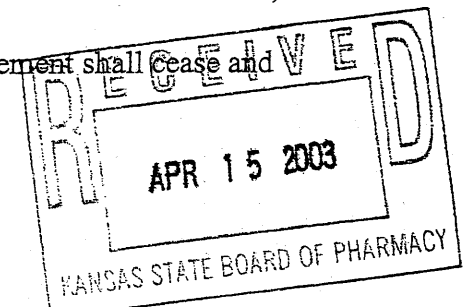
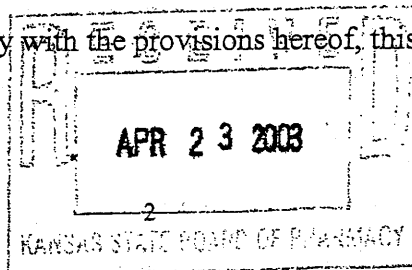
a. The Licensee will immediately cease practicing pharmacy in Kansas and shall not the practice of pharmacy in Kansas through Friday, May 16, 2003.

b. The Licensee, if he has not already done so, shall immediately enter into an evaluation and treatment program, totally at the Licensee's cost, as directed from time to time by the Kansas Pharmacy Impaired Provider Program and as approved from time to time by the Board and shall continue to fully cooperate with the recommendations and requirements of the persons managing or implementing the Kansas Pharmacy Impaired Provider Program, the recommendations and requirements of the persons managing or implementing the evaluation and treatment programs recommended or required by the Kansas Pharmacy Impaired Provider Program and the further requirements of the Board.

c. The Licensee shall authorize the Kansas Pharmacy Impaired Provider Program and any provider of evaluation or treatment programs he engages in to provide full and complete documentation and information regarding the Licensee's involvement in the programs, her evaluations and treatment including, but not limited to, all records and medical reports. All such reports or records received shall be entitled to all protection of confidentiality and privilege as provided for by state and/or federal law and will not be otherwise considered public records under the Kansas Open Records Act. This provision shall not limit the Board's use of such records as provided for by the law subject to any appropriate protective order.

2. This agreement shall not constitute an admission by the Licensee that he has violated the Kansas Pharmacy Act.

3. Should the Board determine, in good faith but in its sole and exclusive discretion, that the Licensee has failed to comply with the provisions hereof, this agreement shall cease and



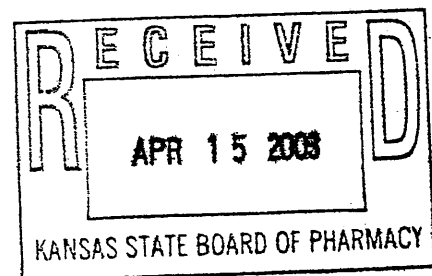
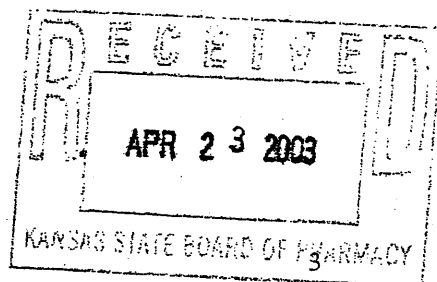
shall not thereafter prevent, in any respect, the Board from initiating an emergency petition to revoke, suspend or otherwise limit the Licensee's Kansas License to practice pharmacy.

4. This agreement shall not prevent, in any manner, the Board from initiating a non-emergency petition to revoke, suspend or otherwise limit the Licensee's Kansas license to practice pharmacy nor shall this agreement prevent in any manner, the Board from taking action it deems appropriate after May 16, 2003.

IN WITNESS WHEREOF the parties have caused this agreement to be executed the day and year first above written.

Alan Conrady
Alan Conrady, R.Ph.

Michael Hurst, R.Ph, Investigative Board



CERTIFICATE OF SERVICE

I certify that the above and foregoing was served by depositing same in the U.S. Mail, first class postage prepaid, this 11 day of April, 2003, addressed to:

Alan Conrady, R.Ph.
1441 N. Rock Rd. #101
Wichita, KS 67206
Licensee

Steve Schwarm
POL SINELLI, SHALTON, WELTE
555 South Kansas, Suite 302
Topeka, KS 66603-3443
Attorneys for Licensee

Steve Phillips
Assistant Attorney General
Kansas State Attorney General's Office
120 S.W. 10th Avenue
Topeka, KS 66612-2215
Attorneys for Kansas State Board of Pharmacy

Susan Linn
Executive Director

