

Filed By

SEP 13 2019

KANSAS STATE BOARD OF PHARMACY

**BEFORE THE KANSAS BOARD OF PHARMACY**

In the Matter of	)	
	)	Case No. 18-033
JASON A. KENT, R.Ph.	)	
	)	
<u>Kansas License No. 1-12866</u>	)	

**STIPULATION AND CONSENT ORDER**

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

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden & Forbes, LLP, 1411 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by his attorney, Anne Kindling of Joseph, Hollander & Craft, LLC, 1508 SW Topeka Blvd., Topeka, KS 66612-1887.

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.* (the "Act"), 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 him Kansas license number 1-12866. At all times relevant hereto, the Respondent has held a current license to engage in the practice of pharmacy in the State of Kansas (hereinafter "Kansas License").

4. 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 in violation of K.S.A. 65-1627(a) that would justify discipline of Respondent's Kansas License under the provisions of K.S.A. 65-1627(a).

*Matter of Jason A. Kent, No. 18-033 (Kan. Bd. of Pharmacy)*

**STIPULATION AND CONSENT ORDER**

5. Any information and records obtained by the Board relating to Respondent's medical treatment shall be held as confidential under 42 CFR Part II. Such information and records are not subject to mandatory disclosure under the Kansas Open Records Act pursuant to K.S.A. 45-221(a)(3). In furtherance of the confidential nature of such information and records,

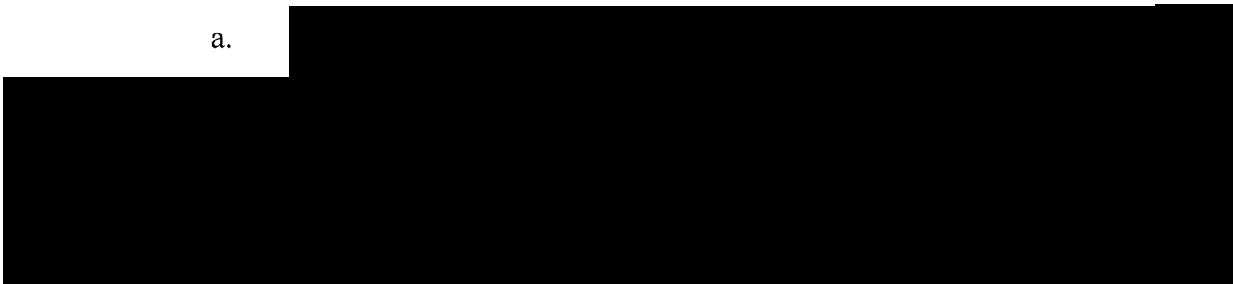
a. Any information and records relating to Respondent's medical treatment shall be held as confidential by the Board, and will not be disseminated by the Board unless required by the applicable law or court order;

b. Any provision of this Stipulation and Consent Order discussing Respondent's medical treatment should be treated as confidential and redacted from any dissemination of this Stipulation and Consent Order, and

c. Any hearing during which this Stipulation and Consent Order is considered by the Board shall be closed to the public during the consideration of Respondent's medical treatment and records.

6. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board, and upon motion duly made, seconded and passed, the Board finds:

a.

A large rectangular area of the document is completely redacted with black ink, covering the text under sub-section 'a'.

b.

A large rectangular area of the document is completely redacted with black ink, covering the text under sub-section 'b'.

c.



d. On or about March 7, 2015, Respondent was charged with driving under the influence of alcohol or drugs by the City of Shawnee Prosecutor's Office in the Municipal Court of Shawnee Kansas, Case No. CN1501038.

e.



f. On or about March 13, 2015, Respondent was charged with violating a protection from stalking order by the Johnson County District Attorney's office in the Johnson County District Court, Case No. 15-DV-328.

g. On or about July 15, 2015, Respondent entered into a DUI Diversion Agreement with the City of Shawnee Prosecutor's office, relating to the DUI arrest. The DUI Diversion Agreement was accepted and filed by the Municipal Court of Shawnee Kansas. Respondent successfully completed the terms of the DUI Diversion Agreement.

h. On or about December 2, 2015, Respondent entered into a Plea Agreement with the Johnson County District Attorney's office, under which Respondent plead

no contest in regard to the criminal charge that he violated a protection from stalking order in violation of K.S.A. 21-5924. [REDACTED]

i. On or about June 6, 2016, Respondent submitted his renewal application for renewal of his Kansas License (“2016 Renewal Application”).

j. Respondent answered “no” to all questions under the Disciplinary Information section of the 2016 Renewal Application. Specifically, Respondent answered “no” to the following questions:

“Have you been convicted of (includes plea of guilty or no contest) a criminal offense or is there any criminal charge now pending against you (other than minor traffic violations) in any state or federal court whether or not a sentence was imposed, suspended, or diverted? This includes misdemeanors.”

.....

[REDACTED]

k. On or about June 7, 2018, [REDACTED]

[REDACTED] Respondent and the Missouri Board of Pharmacy entered into a Settlement Agreement between the Missouri Board of Pharmacy and Jason Kent, Missouri Board of Pharmacy Case No. 2017-003116 (“Missouri Settlement Agreement”), wherein Respondent stipulated to the following factual allegations as true:

5. On or around June 1, 2017, the Board received a complaint alleging that Respondent [REDACTED]

6. Inspectors Joe Dino and Dan Vandersand investigated the allegations on behalf of the Board.

7. The Board also held a fact-finding meeting with Respondent and his attorney on September 13, 2017.

8. Respondent graduated from pharmacy school at the University of Kansas in 2000.  
[REDACTED]

10. In March, 2017, Respondent's girlfriend (K.C.) found a shoebox containing vials of controlled substances in Respondent's closet at his home in Olathe, Kansas. The controlled substances in the shoebox were Xanax 2 mg,<sup>2</sup> clonazepam, and <sup>3</sup> Soma.<sup>4</sup> None of the drugs were prescribed to him.

11. Respondent admitted that he diverted Xanax, clonazepam, and Soma from Myers Pharmacy in March, 2017, but does not recall the quantities he diverted.

12. Respondent admitted that he diverted the controlled substances in furtherance of a plan with his former girlfriend (J.G.) to sell them and split the sales proceeds with her.

13. Respondent later realized that he had made a bad decision and returned the drugs to Myers Pharmacy in mid to late March, 2017.

14. On June, 8, 2017, Inspectors Dino and Vandersand conducted a controlled substance audit of Myers Pharmacy from July 17, 2016 to June 7, 2017 using the inventories provided by the pharmacy. The final results of the controlled substance audit are as follows:

Time Period: 7/17/2016 Open of Business to 6/7/2017 Close of Business			
Drug Name and Strength	Total Accountable for	Total Accounted for	Difference
Amphetamine/dextro 10mg	485	460	-25
Alprazolam 0.5mg	4367	4259	-108
Alprazolam 1mg	4723	4621	-102
Alprazolam 2mg	1149	1090	-59
Carisoprodol 350mg	3491	3262	-229
Clonazepam 0.5mg	4958	4811	-147
Clonazepam 1mg	2087	2108	21
Clonazepam 2mg	1555	1558	3
Hydrocodone/apap 5/325	9381	9365	-16
Hydrocodone/apap 10/325	33151	33449	298
Methadone 10mg	1832	1832	0
Oxycodone/apap 5/325	2048	2168	120
Oxycodone/apap 10/325	3254	3554	300
Phentermine 37.5mg	760	350	-410
Tramadol 50mg	23999	23241	-758
Zolpidem 10mg	4570	2846	-1724

A true and correct copy of the Missouri Settlement Agreement is attached hereto as Exhibit A and incorporated herein by reference.

1. On or about June 27, 2018, Respondent submitted his renewal application for renewal of his Kansas License (“2018 Renewal Application”).

m. Because Respondent answered “yes” to certain questions under the Disciplinary Information section of the 2018 Renewal Application, he also submitted a Personal History Form S-150 along with the 2018 Renewal Application.

n. The 2018 Renewal Application asked:

Have you been convicted of (includes plea of guilty or no contest) a criminal offense or is there any criminal charge now pending against you (other than minor traffic violations) in any state or federal court whether or not a sentence was imposed, suspended, or diverted? This includes misdemeanors.”

In response, Respondent answered: “no.”

o. However, Respondent answered “yes” to the question:

“Have you ever been convicted of (includes plea of guilty or no contest) or charged with a violation of any federal or state drug law(s) or rule(s) whether or not a sentence was imposed, suspended, or diverted?”

Respondent identified his March of 2015 DUI in the Personal History Form S-150 to explain his “yes” answer, because, on the advice of prior counsel, he believed that this was the appropriate question in which to disclose the DUI diversion.

p. Respondent answered “yes” to the following questions:

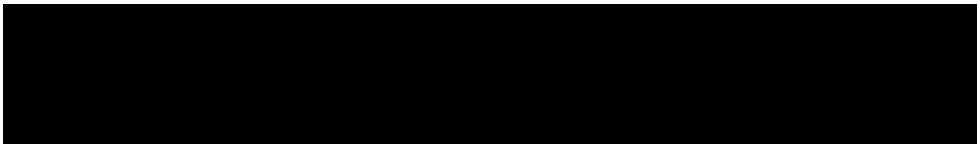
“Has there been a denial, revocation, suspension, voluntary surrender, or any other disciplinary action taken by the State of Kansas or any other jurisdiction against any professional or occupational license or registration held by you?”

“Have you ever been the subject of any disciplinary action taken against a professional or occupational license or registration?”

“Are there any pending or unresolved complaints or investigations against you by any licensing authority or professional or occupational association?”

Respondent revealed in the Personal History Form S-150 that he had been subject to disciplinary action in another jurisdiction. Respondent identified the Missouri Settlement Agreement as the disciplinary action.

q. Respondent also answered “yes” to the following question:



[REDACTED]

r. Respondent did not reveal in the 2018 Renewal Application or Personal History Form S-150 the charge and his plea of no contest for violation of a protection from stalking order in violation of K.S.A. 21-5924.

s. Respondent has been required to submit to drug, alcohol or urinalysis testing pursuant to the Missouri Settlement Agreement, and is currently enrolled in the program required by the Missouri Settlement Agreement.

[REDACTED]

7. Upon motion duly made, seconded and passed, the Board finds and concludes that Respondent's conduct, as described above, violates the Act and such conduct warrants the imposition of disciplinary action against Respondent's Kansas License pursuant to K.S.A. 65-1627(a)(1) for obtaining renewal of his Kansas License in 2016 and in 2018 through false or fraudulent means, including misrepresentation of a material fact, including Respondent's failure to disclose [REDACTED]

[REDACTED] and Respondent's failure to disclose the 2015 DUI and violation of a protection from stalking order in the 2016 Renewal Application and failure to disclose the violation of a protection from stalking order in the 2018 Renewal Application; pursuant to K.S.A. 65-1627(a)(3) for engaging in unprofessional conduct as defined by K.S.A. 65-1626(ttt)(5) through the unlawful possession of a drug; and pursuant to K.S.A. 65-1627(a)(12) as Respondent



had his Missouri license to practice pharmacy disciplined by the Missouri Board of Pharmacy pursuant to the Missouri Settlement Agreement.

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

A. COMPLIANCE WITH THE MISSOURI SETTLEMENT AGREEMENT. The Respondent shall remain in full compliance with all provisions of the Missouri Settlement Agreement, including each of the Missouri Settlement Agreement Requirements.

B. ADMINISTRATIVE FINE. Respondent hereby agrees and consents and the Board orders that Respondent shall pay to the Board an administrative fine of Two Thousand Dollars (\$2,000.00) within ten (10) days of the entry of this Stipulation and Consent Order.

C. PROBATION. Respondent's Kansas License shall be placed on probation for a period of five (5) years from the effective date of this Stipulation and Consent Order. As a condition of probation, Respondent must remain in full compliance with the requirements of this Stipulation and Consent Order.

D. IMPAIRED PROVIDER PROGRAM. If he has not already done so, Respondent shall immediately enter into a *Statement of Understanding* agreement with the Kansas Pharmacists Association Committee on Impaired Pharmacy Practice Program ("CIPP Agreement") for a period of no less than 5 years. Respondent shall fully cooperate with the recommendations and requirements of the persons managing and implementing CIPP Agreement, the recommendations and requirements of the persons managing and implementing the evaluation and treatment programs recommended or required by CIPP Agreement and the further requirements of the Board. Respondent shall, at all times, be in full compliance with the

requirements of the CIPP Agreement and any other requirements placed upon him by the Kansas Pharmacists Association Committee on Impaired Pharmacy Practice Program (“CIPP”), *including, but not limited to full and continued compliance with the requirement to cooperate with requests for random bodily fluid drug screens, as provided in his CIPP Agreement.* The Respondent shall authorize CIPP and any provider of evaluation or treatment programs he engages in to provide full and complete documentation and information regarding the Respondent's involvement in the programs, his evaluations and treatment, including, but not limited to, all records and medical reports. *The Respondent shall not be released from the requirements of the CIPP Agreement until he has made a request to the Board for release, appeared before the Board and provided proof sufficient to the Board that he has been in substantial compliance with the CIPP agreement for a 5-year period.*

E. PHARMACIST-IN-CHARGE PROHIBITION. Respondent shall not serve as a pharmacist-in-charge or in a supervisory capacity with any pharmacy in the State of Kansas without prior written approval from the Board.

F. RAPBACK PROGRAM. Respondent's information will also be inputted in the “RapBack Program.” Respondent shall submit to the Board a completed S-100 and Fingerprint Card, and corresponding fee within ten (10) days of the effective date of this Stipulation and Consent Order.

G. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order he must:

1. Comply fully with this Stipulation and Consent Order;
2. Comply fully with the 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's Investigation Member, its staff, its investigators and or its attorney regarding the investigation which lead 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 Consent Order, with or without the presence of the Respondent or his attorney. In the event that this Stipulation and Consent Order is not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Stipulation and Consent 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 until this Stipulation and Consent Order is approved and entered as a final order by the Board. The Respondent acknowledges that the approval of the Board's Investigation Member or its attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Consent Order.

11. The Respondent agrees that this Stipulation and Consent Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it as a Final Order of the Board. The Respondent further agrees, for purposes of this matter, 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 and Consent 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.

13. 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 or its designee making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing; and

(d) To take advantage of all applicable provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.* and the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The Respondent freely waives these rights and acknowledges that said waiver is made voluntarily. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order and the Final Order provided for herein.

14. The Respondent acknowledges that he enters into this Stipulation and Consent Order freely and voluntarily after consultation with or an opportunity to consult with counsel of her choosing. The Respondent further acknowledges that he has read this Stipulation and Consent 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. Respondent acknowledges and agrees that any violation of this Stipulation and Consent Order shall constitute a violation of a lawful Board order and grounds for further disciplinary action against him. The pendency of any disciplinary action arising out of an alleged violation of this Stipulation and Consent Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Consent Order.

16. This Stipulation and Consent Order constitutes the entire and final agreement of the parties. In the event any provision of this Stipulation and Consent Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Stipulation and Consent Order shall be given full force and effect.

17. Upon approval and entry of the Final Order by the Board, this Stipulation and Consent Order shall be a public record in the custody of the Board.


18. This Stipulation and Consent 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.

19. 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 Judicial Review Act, K.S.A. 77-601 *et seq.* and to serve such a petition for judicial review on the Kansas Board of Pharmacy by serving Alexandra Blasi, its Executive Secretary at 800 SW Jackson St., Suite 1414, Topeka, KS 66612-1244. The Respondent hereby waives those rights.

**ENTERED AND EFFECTIVE** this 12 day of September, 2019.

KANSAS BOARD OF PHARMACY

By:

  
DR. JOHN WORDEN  
President

*Matter of Jason A. Kent*, No. 18-033 (Kan. Bd. of Pharmacy)

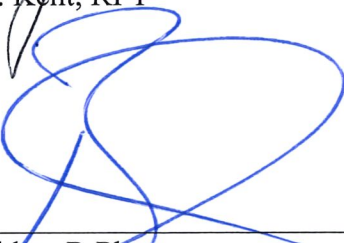
**STIPULATION AND CONSENT ORDER**

Page 13 of 15

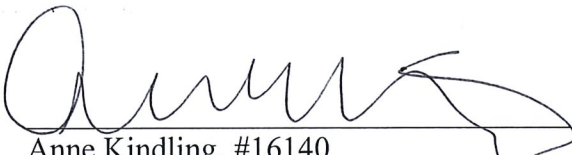
AGREED AND APPROVED BY:

  
\_\_\_\_\_  
Jason A. Kent, RPT


9/9/2019  
Date

  
\_\_\_\_\_  
Bill Walden, R.Ph  
Investigative Member

9/12/19  
Date

  
\_\_\_\_\_  
Anne Kindling, #16140  
JOSEPH, HOLLANDER & CRAFT, LLC  
1508 SW Topeka Blvd.  
Topeka, KS 66612  
Phone: 785-234-3272  
Fax: 785-234-3610  
**Attorneys for Respondent**

9-9-2019  
Date

  
\_\_\_\_\_  
Randall J. Forbes, KS#09089 MO#64335  
FRIEDEN & FORBES, LLP  
1414 SW Ashworth Place, Suite 201  
Topeka, KS 66604  
**Counsel for the Kansas Board of Pharmacy**

09/10/2019  
Date

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing STIPULATION AND CONSENT ORDER was served by depositing same in the United States mail, postage prepaid, this 13<sup>th</sup> day of September, 2019 addressed to:

Randall J. Forbes  
FRIEDEN & FORBES, LLP  
1414 SW Ashworth Place, Suite 201  
Topeka, KS 66604

Jason A. Kent, RPT  
16102 W. 157<sup>th</sup> St.  
Olathe, KS 66062

Anne Kindling  
JOSEPH, HOLLANDER & CRAFT, LLC  
1508 SW Topeka Blvd.  
Topeka, KS 66612



\_\_\_\_\_  
Representative of the Executive Director  
KANSAS BOARD OF PHARMACY

**EXHIBIT A**

**STATE OF MISSOURI  
MISSOURI BOARD OF PHARMACY**

IN RE:	)	
	)	
JASON KENT	)	
License No. 2014036348	)	Complaint No. 2017-003116
16102 W. 157 <sup>th</sup> Street	)	
Olathe, KS 66062	)	

**SETTLEMENT AGREEMENT BETWEEN  
THE MISSOURI BOARD OF PHARMACY AND JASON KENT**

Come now Jason Kent, R. Ph. (“Respondent” or “Licensee”) and the Missouri Board of Pharmacy (“Board” or “Petitioner”) and enter into this Settlement Agreement for the purpose of resolving the question of whether Respondent’s license to practice pharmacy will be subject to discipline.

Pursuant to the terms of Section 536.060, RSMo, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the Board under Section 621.110, RSMo, and stipulate and agree that a final disposition of this matter may be effectuated as described below.

Respondent acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney’s fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Respondent knowingly



and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to him.

Respondent acknowledges that he has received a copy of the draft Complaint to be filed with the Administrative Hearing Commission, the investigative report, and other documents relied upon by the Board in determining there was cause for discipline against Respondent's license.

For the purpose of settling this dispute, Respondent stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Board that Respondent's license to practice pharmacy, numbered 2014036348, is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 338, RSMo.

### **JOINT STIPULATION OF FACTS**

1. The Board is an agency of the State of Missouri created and established pursuant to Section 338.140, RSMo (2016)<sup>1</sup>, for the purpose of executing and enforcing the provisions of Chapter 338, RSMo.

2. Jason A. Kent is licensed as a pharmacist under the laws of the State of Missouri, License No. 2014036348.

3. Respondent was originally licensed as a pharmacist in the State of Missouri on or about December 28, 2000. His pharmacist license expired in 2010. Respondent reapplied for and was reissued a Missouri pharmacist license on or about October 9, 2014. This license is current and active.

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<sup>1</sup> All statutory references are to the Revised Statutes of Missouri (2000), as amended, unless otherwise indicated.

4. At all times relevant herein, Respondent was employed at Ozark Medical Center, 1100 Kentucky Ave, West Plains, MO 65775, and Myers Pharmacy, 603 North Hwy. 16, Alton, MO 65606.

5. On or around June 1, 2017, the Board received a complaint alleging that Respondent [REDACTED] and that he had diverted controlled substances.

6. Inspectors Joe Dino and Dan Vandersand investigated the allegations on behalf of the Board.

7. The Board also held a fact-finding meeting with Respondent and his attorney on September 13, 2017.

8. Respondent graduated from pharmacy school at the University of Kansas in 2000.

[REDACTED]

10. In March, 2017, Respondent's girlfriend (K.C.) found a shoebox containing vials of controlled substances in Respondent's closet at his home in Olathe, Kansas. The controlled substances in the shoebox were Xanax 2 mg,<sup>2</sup> clonazepam, and <sup>3</sup> Soma.<sup>4</sup> None of the drugs were prescribed to him.

11. Respondent admitted that he diverted Xanax, clonazepam, and Soma from Myers Pharmacy in March, 2017, but does not recall the quantities he diverted.

12. Respondent admitted that he diverted the controlled substances in furtherance of a plan with his former girlfriend (J.G.) to sell them and split the sales proceeds with her.

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<sup>2</sup> Xanax is a brand name for Alprazolam, which is a Schedule IV controlled substance pursuant to §195.017.8(2)(a), RSMo.

<sup>3</sup> Clonazepam is a Schedule IV controlled substance pursuant to § 195.017.8(2)(i), RSMo.

<sup>4</sup> Soma is a brand name for carisoprodol, a Schedule IV controlled substance pursuant to 21 CFR § 1308.14.

13. Respondent later realized that he had made a bad decision and returned the drugs to Myers Pharmacy in mid to late March, 2017.

14. On June, 8, 2017, Inspectors Dino and Vandersand conducted a controlled substance audit of Myers Pharmacy from July 17, 2016 to June 7, 2017 using the inventories provided by the pharmacy. The final results of the controlled substance audit are as follows:

<b>Time Period: 7/17/2016 Open of Business to 6/7/2017 Close of Business</b>			
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Phentermine 37.5mg	760	350	-410
Tramadol 50mg	23999	23241	-758
Zolpidem 10mg	4570	2846	-1724

15. Respondent submitted a Licensed Pharmacist Examination Application to the Board on or about September 26, 2000. Respondent answered "no" [REDACTED]

[REDACTED] By signing the application, Respondent attested to the truthfulness of the statements therein.

16. On or about September 4, 2014, Respondent submitted a Pharmacy License Transfer/Reciprocity Applicant Statement to the Board to reobtain licensure in Missouri. Respondent answered "no" to [REDACTED]

[REDACTED] By signing the

application, Respondent attested to the truthfulness of the statements therein under penalty of perjury.

[REDACTED]

18. Respondent used fraud, deception, and/or misrepresentation to secure a pharmacist license in Missouri by failing to disclose his [REDACTED]

[REDACTED]

19. Respondent's dispensing of controlled substances to himself without a prescription violated §195.060.1, RSMo, which states:

I. Except as provided in subsection 4 of this section, a pharmacist, in good faith, may sell and dispense controlled substances to any person only upon a prescription of a practitioner as authorized by statute. . .

20. When Respondent possessed controlled substances without a prescription he violated federal law, to wit:

(a) Unlawful acts; penalties

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II of this chapter. 21 U.S.C. § 844(a)<sup>5</sup>

21. Respondent's actions also violated federal regulations regarding Schedule IV controlled substances, to wit:

(a) A pharmacist may dispense directly a controlled substance listed in Schedule III, IV, or V that is a prescription drug as determined under section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)) only pursuant to either a paper prescription signed by a practitioner, a facsimile of a signed paper prescription transmitted by the practitioner or the practitioner's agent to the pharmacy, an electronic prescription that meets the requirements of this part and part 1311 of this

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<sup>5</sup> All statutory references are to the United States Code 2012, as supplemented, unless otherwise indicated.

chapter, or an oral prescription made by an individual practitioner and promptly reduced to writing by the pharmacist containing all information required in Sec. 1306.05, except for the signature of the practitioner. 21 CFR §1306.11(a).

22. Removing prescription drugs without a prescription also is misbranding and violates Missouri law, to wit:

The following acts and the causing thereof within the state of Missouri are hereby prohibited:

- (1) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded;
- (2) the adulteration or misbranding of any food, drug, device, or cosmetic; §196.015(1)-(2), RSMo.

23. Missouri law further provides:

1. Any manufacturer, packer, distributor or seller of drugs or devices in this state shall comply with the current federal labeling requirements contained in the Federal Food, Drug and Cosmetic Act, as amended, and any federal regulations promulgated thereunder. Any drug or device which contains labeling that is not in compliance with the provisions of this section shall be deemed misbranded. §196.100(1), RSMo.

24. A legend drug dispensed without a prescription is misbranded under federal law, which provides, in pertinent part:

(b) Prescription by physician; exemption from labeling and prescription requirements; misbranded drugs; compliance with narcotic and marihuana laws

(1) A drug intended for use by man which --

(A) because of its toxicity or other potentiality for harmful effect, or the method of its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or

(B) is limited by an approved application under section 355 of this title to use under the professional supervision of a practitioner licensed by law to administer such drug;

shall be dispensed only:

(i) upon a written prescription of a practitioner licensed by law to administer such drug, or

(ii) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or

(iii) by refilling any such written prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in the drug being misbranded while held for sale. 21 U.S.C. §353(1).

25. Federal law also provides:

The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any . . . drug . . . that is adulterated or misbranded.

(b) The adulteration or misbranding of any . . . drug . . . in interstate commerce. 21 U.S.C. §331(a)-(b).

26. By dispensing medication which was not authorized by a prescription, Respondent misbranded a legend drug product and dispensed a misbranded drug product in violation of §196.015, RSMo, §196.100, RSMo, 21 U.S.C. §353(1), 21 U.S.C. §331(a)-(b).

**JOINT CONCLUSIONS OF LAW**

27. Respondent's conduct is cause for disciplinary action against his license to practice pharmacy under § 338.055.2(3), (4), (5), (13), (15) and (17), RSMo, which provides:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

\* \* \*

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

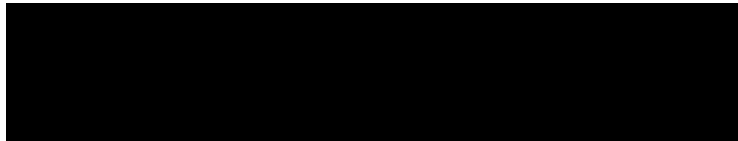
\* \* \*

(13) Violation of any professional trust or confidence;

\* \* \*

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

\* \* \*



## JOINT AGREED DISCIPLINARY ORDER

A. Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of §621.045.4(3), RSMo. Respondent's pharmacist license, number 2014036348 shall be placed on **PROBATION for a period of FIVE (5) YEARS** ("disciplinary period"). The terms of discipline shall be:

1. Respondent shall comply with all applicable provisions of Chapter 338, Chapter 195, Chapter 196 and all applicable federal and state pharmacy/drug laws and regulations and all federal and state criminal laws. "State" here includes the State of Missouri and all other states and territories of the United States.
2. Respondent shall not serve as pharmacist-in-charge or manager-in-charge of any entity licensed or regulated by the Board, or as a preceptor for pharmacy interns or as a teaching member of any school or college of pharmacy. Additionally, Respondent shall not serve as a consultant required by a Board disciplinary order for any pharmacy/drug distributor.
3. Respondent shall keep the Board apprised of his current home, electronic mail (e-mail) and work addresses and telephone numbers. Respondent shall notify the Board of any change in Respondent's employer or Respondent's home or work address within ten (10) days of such change in a manner approved by the Board. For employer/work changes, Respondent's notification shall include the reasons for the change. If at any time Respondent is employed by a temporary employment agency or maintains employment that requires frequent daily or weekly changes of work location she must provide the Board a list of locations worked if requested by the Board or Board's representative.
4. If Respondent's license expires or becomes void/invalid, upon renewal or reapplication, Respondent's license shall be subject to all terms and conditions of discipline not previously satisfied, including any remaining suspension/probationary period.
5. Respondent shall cooperate with the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of this Settlement Agreement. Respondent shall make himself available for personal interviews to be conducted by a member of the Board or the Board of Pharmacy staff. Said meetings shall be at the Board's discretion and may occur periodically during the disciplinary period.
6. Respondent shall respond to any written inquiry of the Board and provide any requested documentation/records within three (3) days of receipt of a written request from the



Board or the Board's authorized designee, or as otherwise requested by the Board/Board designee.

7. If requested by the Board, Respondent shall submit to a criminal history background check via the Board's approved vendor at Respondent's cost. Unless otherwise directed by the Board, Respondent shall submit the required fingerprints and undergo the requested criminal history background check within ten (10) days of the Board's request.
8. Respondent shall submit to any drug, alcohol or urinalysis testing requested by the Board, at Respondent's cost. Testing may be conducted on any human sample, including, but not necessarily limited to, urine, blood, breath, hair, nails, skin or saliva. The timing, manner and scheduling for testing is within the Board's sole discretion.
9. Respondent shall report any of the following occurrences to the Board, in writing, within seventy-two (72) hours of such occurrence:
  - a. Any arrest or issuance of a criminal complaint;
  - b. Any municipal/local arrest, citation or complaint relating to drugs, theft, shoplifting, burglary, possession of drug paraphernalia, driving or operating a motor vehicle under the influence/while intoxicated or illegally possessing, selling or purchasing alcohol, any drug or drug paraphernalia;
  - c. A finding or plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment, including, but not limited to, any deferred or diverted adjudication, order or agreement;
  - d. A conviction of any crime, including, but not limited to, any Suspended Imposition of Sentence ("SIS") or Suspended Execution of Sentence ("SES");
  - e. A finding by a court that Respondent has violated any term of his criminal probation/parole;
  - f. Any discipline, citation, or other administrative action filed or taken against Respondent by any state board/committee of pharmacy, or any other state or federal agency.

Failure to timely report any of the foregoing occurrences shall be considered a disciplinary violation.

10. If Respondent is currently or begins serving any period of criminal probation/parole, Respondent shall provide the name of his probation/parole officer to the Board, in writing, within ten (10) days of the effective date of this Agreement or within ten (10) days of the designation of a probation/parole officer. If Respondent's probation/parole officer is changed for any reason, Respondent shall submit the name of the replacement officer to the Board within ten (10) days of the change/modification. Respondent shall execute a release authorizing his probation or parole officer to provide to the Board any

information relating to Respondent's probation or parole. Respondent shall maintain the release in effect and shall provide an updated release if requested by the Board.

11. Respondent shall file a "Disciplinary Compliance Report" with the Board in a form/manner approved by the Board. The Disciplinary Compliance Report shall be due by January 1 and July 1 of each calendar year. Respondent's final Disciplinary Compliance Report shall be filed no later than ninety (90) days before the end of the probationary period.
12. Respondent's failure to comply with any condition of discipline set forth herein constitutes a violation of this Agreement.
13. The parties to this Agreement understand that the Board of Pharmacy will maintain this Agreement as an open record of the Board as provided in Chapters 324, 338, 610, RSMo.

#### **NOTICE TO EMPLOYERS**

14. If applicable, Respondent shall notify any employer of the employer's need to apply for and receive the necessary state (misdemeanor/felony) and federal (felony) waivers from the Bureau of Narcotics and Dangerous Drugs and the Drug Enforcement Administration in order to be employed within a facility that maintains state or federal registrations for the purpose of storing, distributing or dispensing controlled substances.
15. Except as otherwise provided herein, "Employment" within the meaning of this Agreement shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license, pharmacy intern license or pharmacy technician registration is a requirement or criterion for employment, regardless of whether Respondent is an employee, independent contractor, volunteer, instructor or consultant. "Employment" shall also include any entity where legend drugs are stored, sold, dispensed or distributed.
16. Respondent shall notify any current or future employers of this action by providing a copy of this Settlement Agreement to the pharmacist-in-charge or manager-in-charge of any pharmacy or drug distributorship where Respondent is employed, on or before the effective date of discipline or prior to accepting any offer of employment.
  - a. If Respondent is not or will not be employed by a pharmacy or drug distributor, the notice shall be provided to Respondent's direct supervisor at Respondent's current/prospective place of employment, as defined herein, within the timeframes required by this section.
  - b. For purposes of this Agreement, a pharmacy shall also include, but is not limited to, any location providing pharmacy services for inpatients of a licensed hospital or residents of a long term care facility.
17. Respondent shall cause the pharmacist-in-charge, manager-in-charge or supervisor to sign a written acknowledgment on a form approved by the Board indicating that he/she

has received and reviewed the Settlement Agreement and the terms and conditions imposed thereby. The written acknowledgement shall be signed and dated by the applicable pharmacist-in-charge, manager-in-charge or supervisor and shall be submitted to the Board by Respondent for verification within ten (10) days of the dated signature. Respondent shall be responsible for ensuring the required signed acknowledgments are timely submitted to the Board.

18. If at any time Respondent is employed by a temporary employment agency, Respondent must provide each employment agency a copy of this Settlement Agreement prior to being assigned to a temporary employment site. Respondent shall also provide a copy of the Settlement Agreement to each pharmacist-in-charge or manager-in-charge of each pharmacy or drug distributor where Respondent is assigned to work. If the pharmacist-in-charge or manager-in-charge is not present at the employment site, a copy of the Settlement Agreement shall be left at the applicable site for the pharmacist-in-charge/manager-in-charge to review. Respondent shall provide an accurate listing of all employment/work sites where Respondent has been assigned if requested by the Board or the Board's authorized designee.
19. Licensee shall execute any release or provide any authorization necessary for the Board to obtain records of Respondent's employment during the period covered by this Settlement Agreement.

#### **CONTINUING EDUCATION**

20. Within three (3) months of the effective date of this Settlement Agreement, Respondent shall take and pass the Board approved Pharmacy Practice Guide Continuing Education Examination, if available. Respondent shall register and complete the required examination via the Board's website or as otherwise requested by the Board.
21. Respondent shall take a minimum of 6.0 continuing education (0.60 CEUs) hours in pharmacy law during each biennial pharmacist renewal period that is completed while Respondent is on discipline. The continuing education required by this section shall comply with 20 CSR 2220-7.080 and may be used to satisfy the licensee's biennial continuing education requirement. Proof of compliance with the continuing education requirements of this section shall be submitted to the Board on or before October 31<sup>st</sup> of each biennial pharmacist renewal period.

#### **CHEMICAL DEPENDENCY**

22. Respondent shall abstain completely from the use or consumption of alcohol in any form, including over-the-counter medications and mouthwashes. The presence of any alcohol or alcohol metabolite whatsoever in a biological fluid sample shall constitute a violation of discipline.
23. Respondent shall abstain completely from the personal use of any controlled substance or other drug for which a prescription is required unless use of the drug has been

prescribed by an authorized prescriber with whom Respondent has a bona fide patient relationship. Upon request, Respondent shall execute a medical release authorizing the prescriber to release treatment/medical records to the Board and/or communicate with the Board, or its representative, regarding Respondent's treatment. The presence of any controlled substance for which Respondent does not hold a valid prescription shall constitute a violation of discipline.

24. Respondent shall inform any prescriber issuing a prescription for Respondent that Respondent has been disciplined by the Board for issues relating to chemical misuse, dependency or impairment. Additionally, Respondent shall provide a copy of this Agreement to all prescribers issuing/renewing a controlled substance, nalbuphine, or tramadol prescription to Respondent. Disclosure shall be made before the issuance of any new prescription(s). In the case of renewed/refilled prescriptions, disclosure shall be made within ten (10) days of the effective date of this Agreement.
25. Within 10 days of the effective date of this Agreement, Respondent shall provide the Board office a copy of all controlled substance prescriptions in Respondent's possession on the effective date of discipline. In lieu of prescription copies, Respondent may provide a list of all controlled substances prescribed on a form provided by the Board.
26. Respondent shall provide the Board with a copy of each prescription received, controlled or non-controlled, within five (5) days of Respondent's receipt of the prescription.
27. Respondent shall ensure that he is not in the same physical location as individuals who are using illicit drugs/substances, even if Respondent is not personally ingesting the drug/substance.
28. Respondent shall not be personally involved in any aspect of a pharmacy's processing, dispensing, or billing of any prescription for himself or any family member, including, but not limited to, recording any telephone prescription or verbal refill authorization.
29. Respondent shall execute a release that allows the Board to obtain treatment, medical, assessment, attendance, counseling or evaluation records from any person or support groups providing treatment, evaluation or counseling. Licensee shall take any and all steps necessary to continue the release(s) in effect for the entire period covered by this Agreement. If requested by the Board, Respondent shall provide any new or additional release(s) within three (3) days of a request in a form provided by the Board.
30. Respondent shall take all necessary steps to ensure that any reports required by this Agreement are timely submitted to the Board.
31. If directed by the Board, Respondent shall become a participant in the Board's Well-Being Program established pursuant Section 338.380, RSMo, for the remainder of the disciplinary period, when the Program is fully operational. When notified by the

Board, Respondent shall enroll in the Program as directed by the Board. Respondent shall bear all the costs of the Program.

32. Respondent shall bear all costs of complying with this Settlement Agreement.

**DRUG TESTING:**

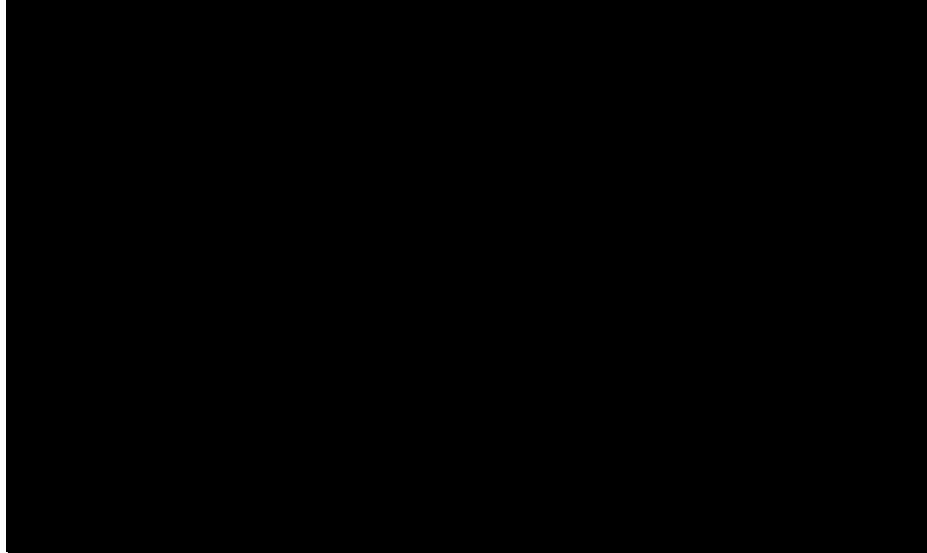
33. Respondent shall participate in the Board's random drug testing/urinalysis program administered by FirstLab, the Board's approved drug testing/urinalysis vendor.
34. Licensee shall enroll in FirstLab's Professional Health Monitoring Program, on or before the effective date of this Settlement Agreement. Respondent shall comply with all requirements imposed by FirstLab for the Professional Health Monitoring Program, including, but not limited to, any drug test/urinalysis requirements, any scheduling requirements, any reporting or telephone contact requirements and any requirements for payment of fees, purchasing/maintaining chain of custody (COC) forms or other required program documents/materials.
35. Respondent shall undergo periodic drug testing/urinalysis as requested by the Board or FirstLab, at Respondent's cost. Testing may be conducted on any human sample, including, but not necessarily limited to, urine, blood, breath, hair, nails, skin or saliva. The timing, manner and scheduling for testing shall be within the Board's sole discretion.
36. If the Board's approved drug testing/urinalysis vendor changes from FirstLab, Respondent shall participate in and comply with any drug testing/urinalysis requirements requested by the Board or any subsequent Board approved vendor, including, but not limited to, any requirements for program enrollment, test scheduling, reporting or telephone contact, payment of fees, purchasing/maintaining chain of custody (COC) forms or any other required documents/materials.

**CHEMICAL DEPENDENCY EVALUATION:**

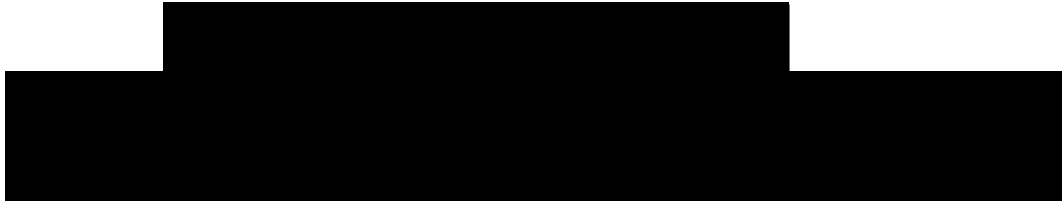
37. [REDACTED]

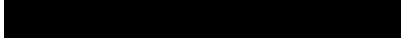
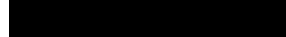
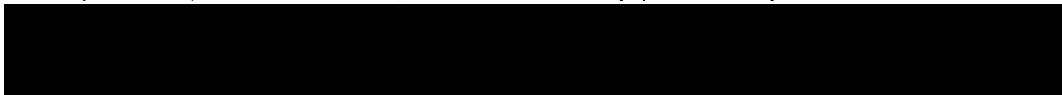
38. The [REDACTED] evaluator must be approved by the Board prior to the evaluation. The name and documentation of the credentials of the required [REDACTED] shall be submitted to the Board for approval within thirty (30) days after the effective date of this Agreement. Respondent shall provide a copy of this Agreement to the approved evaluator before the initial evaluation is performed.
39. Respondent shall cause the evaluator to submit an initial evaluation report to the Board within ten (10) days after the evaluation has been completed. The evaluation report

shall be mailed directly to the Missouri Board of Pharmacy, P.O. Box 625, Jefferson City, Missouri 65102, and shall include:



- 40. Respondent shall execute a medical release for the approved evaluator that allows the Board to obtain the evaluation and any supporting documents/medical records.

- 41. A large black redaction covers the text of item 41, with a smaller redaction above it.

- 42. The Board reserves the right to request a subsequent  of Respondent at any time during the disciplinary period. If requested by the Board, the evaluations shall be performed by a licensed or certified  professional approved or designated by the Board. Respondent shall submit to the examination as requested by the Board at Respondent's expense. If further evaluation is requested by the Board, Respondent shall comply with all provisions of this Order A large black redaction covers the text of item 42, with a smaller redaction above it.

- 43.  Respondent shall continue to comply with all remaining provisions of this Settlement Agreement, including, but not limited to, all drug/urinalysis testing and reporting requirements.

[Redacted]

44.

[Redacted]

45.

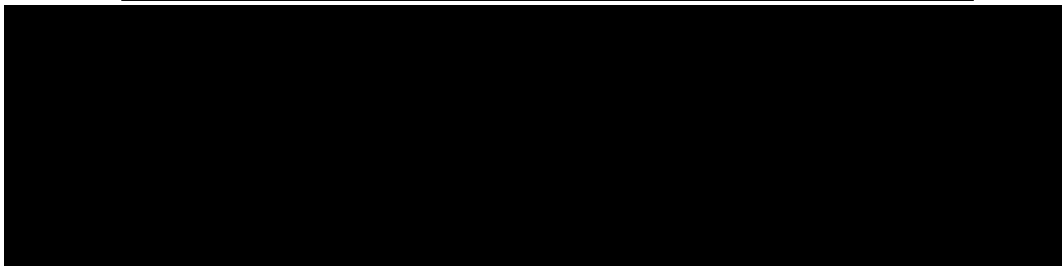
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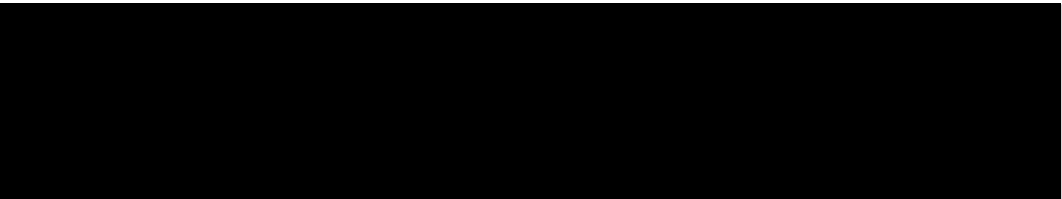
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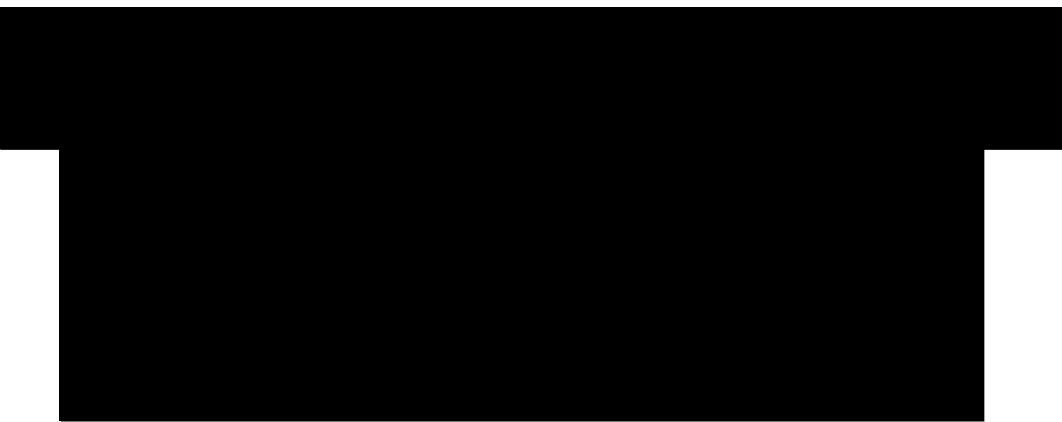
47.



48.



49.



50. The Board reserves the right to request a subsequent [redacted] of Respondent at any time during the disciplinary period. If requested by the Board, the evaluations shall be performed by a licensed or certified [redacted] professional approved or designated by the Board. Respondent shall submit to the examination as requested by the Board at Respondent's expense. Respondent shall



comply with all provisions of this Agreement regarding the initial [REDACTED]

51. [REDACTED] Respondent shall continue to comply with all remaining provisions of this Settlement Agreement, including, but not limited to, all drug/urinalysis testing and reporting requirements.

B. Upon the expiration of said discipline, Respondent's license as a pharmacist in Missouri shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Board determines that Respondent has violated any term or condition of this Agreement, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline Respondent.

C. If the Board determines that Respondent has violated a term or condition of this Settlement Agreement, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Settlement Agreement in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, it may impose further discipline. The Board retains jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

D. No order shall be entered by the Board pursuant to the preceding paragraph of this Agreement without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

E. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

F. Respondent, together with his heirs and assigns, and his attorneys, do hereby waive and release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to Section 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this Settlement Agreement in that it survives in perpetuity even in the event that any court of law deems this Settlement Agreement or any portion thereof void or unenforceable.

**RESPONDENT, AS EVIDENCED BY THE INITIALS ON THE APPROPRIATE  
LINE,**

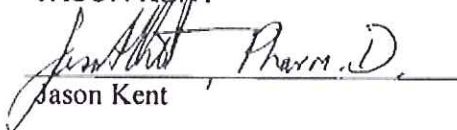
\_\_\_\_\_ REQUESTS  
\_\_\_\_\_ **X** \_\_\_\_\_ DOES NOT REQUEST

**THE ADMINISTRATIVE HEARING COMMISSION TO DETERMINE IF THE FACTS  
SET FORTH HEREIN ARE GROUNDS FOR DISCIPLINING RESPONDENT'S  
LICENSE.**

If Respondent has requested review, Respondent and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Respondent's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Respondent's license. Effective fifteen (15) days from the date the Administrative Hearing Commission determines that the Settlement Agreement sets forth cause for disciplining Respondent's license, the agreed upon discipline set forth herein shall go into effect.

If Respondent has not requested review by the Administrative Hearing Commission, the Settlement Agreement goes into effect fifteen (15) days after the document is signed by the Board's Executive Director.

RESPONDENT  
JASON KENT

  
Jason Kent, Pharm.D.

Date: 5/24/2018

PETITIONER  
MISSOURI BOARD OF  
PHARMACY

By:

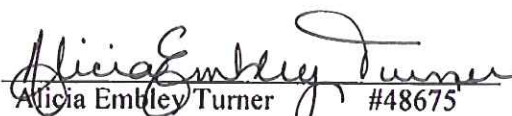
  
Kimberly Grinston  
Executive Director

Date:

6-7-18

NEWMAN, COMLEY & RUTH P.C.

By:

  
Alicia Embley Turner #48675  
601 Monroe Street, Suite 301  
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Attorneys for Missouri Board of  
Pharmacy