

Doug M. Taylor, KS Bar #23690
Kansas State Board of Pharmacy
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BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of)
Marilyn Mix, R.Ph.,) Case No. 12-35
Kansas License No. 1-12340.)

CONSENT AGREEMENT

COMES NOW, the Kansas State Board of Pharmacy (“the Board”), and reviews the file on Marilyn Mix (“Respondent”).

THEREUPON, being duly advised on the matter, the Board and Respondent agree to the following:

WAIVER OF RIGHTS

Respondent understands that she has the following rights in this case: The right to discovery, a hearing before the Board, and if found in violation of the Kansas Pharmacy Act, the right to appear before the District Court and Kansas appellate courts pursuant to the Kansas Judicial Review Act (the “KJRA”).

Respondent hereby acknowledges her right to be represented by a lawyer of her own choosing. Knowing these rights, Respondent, by signing this agreement, knowingly and voluntarily suspends these rights at this time, including the right to a hearing by the Board.

FACTS

1. The Board is charged with the administration of the Kansas Pharmacy Act (K.S.A. § 65-1626, *et seq.*) (the “Pharmacy Act”) and with the enforcement of the rules and regulations promulgated thereunder.

2. Respondent is currently licensed as a pharmacist in the State of Kansas having been issued License No. 1-12340.
3. During the times in question, Respondent served as the pharmacist-in-charge at Dighton Drug
4. Dighton Drug is located at 136 E. Long, Dighton, KS 67839.
5. The Board's Investigative Member has received certain information, has investigated and has determined that there are reasonable grounds to believe that Respondent has committed an act or acts in violation of the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.*, which would subject its registration to discipline pursuant to K.S.A. 65-1627.
6. The Board is authorized to assess civil fines under the provisions of the Pharmacy Act. More specifically, the Board may, "assess a civil fine, after notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against any licensee or registrant under subsections (a), (c), (d) and (e) of K.S.A. 65-1627, and amendments thereto, for violations of the pharmacy act of the state of Kansas or rules and regulations of the state board of pharmacy or for violation of the uniform controlled substances act or rules and regulations of the state board of pharmacy adopted under the uniform controlled substances act, in an amount not to exceed \$5,000 for each violation." K.S.A. § 65-1658.
7. Pursuant to laws and regulations pertaining to of pharmacies, the Board is authorized to conduct hearings, summary proceedings, and emergency proceedings under the Kansas Administrative Procedure Act (K.S.A. § 77-501, *et seq.*) ("KAPA"). K.S.A. § 65-1663(e)(4). Such proceedings may result in suspension, revocation, and other disciplinary actions affecting Respondent's license as a pharmacist in the State of Kansas.

8. On February 24, 2012, Respondent called Cindy Brungardt, R.Ph. (License No. 1-11198), who was filling in for her at Dighton Drug, and requested that Ms. Brungardt fill a prescription for Tramadol 50mg for her husband, Hal Mix, and mail it to his home address.
9. Ms. Brungardt filled the prescription as requested, but later realized that it was not authorized by a physician and reported the incident on March 5, 2012.
10. During an investigation of the complaint filed with the Board, Respondent admitted to falsifying the prescription for her husband, and stated that she planned on closing the pharmacy and surrendering her license.
11. K.S.A. 65-1627(a)(3) provides:

The board may revoke, suspend, place in a probationary status or deny a renewal of any license of any pharmacist upon a finding that: . . . (3) the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency.
12. K.S.A. 65-1626(rr) defines “unprofessional conduct” as “. . . (5) unlawful possession of drugs and unlawful diversion of drugs to others; . . . (7) conduct likely to deceive, defraud or harm the public . . .”

TERMS AND CONDITIONS

1. Respondent agrees to voluntarily surrender her license to practice pharmacy in the State of Kansas to the Board, along with all indicia of licensure, within 60 days from the date this Consent Agreement becomes final. This voluntary surrender will be treated as a revocation for reporting purposes;
2. Respondent agrees to close her pharmacy, Dighton Drug (Registration No. 2-08520), located at 136 E. Long, Dighton, KS 67839, within 60 days from the date this

Consent Agreement becomes final. An Inspector from the Board must be on hand to supervise the closure of the pharmacy; and

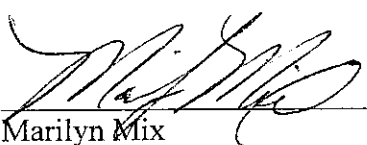
3. Respondent agrees to pay a civil fine of \$1000.00.

If Respondent wishes to become licensed to practice pharmacy in the State of Kansas at any point in the future, she agrees to first appear before the Board to obtain permission to do so. Upon obtaining permission from the Board, Respondent agrees to then participate in the full application process prior to obtaining her license.

CONSENT OF THE KANSAS STATE BOARD OF PHARMACY


This Consent Agreement is not binding upon the Board until it has been reviewed and agreed to by the Kansas State Board of Pharmacy at its next quarterly meeting, to be held May 31 and June 1, 2012.

The parties below have read this Consent Agreement, know and understand its contents, and agree to comply with its terms. Respondent specifically agrees to waive the constitutional rights enumerated above.



Marilyn Mix
350 N. 3rd
Dighton, KS 67839

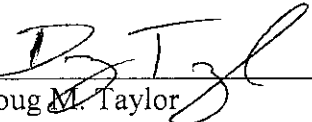
Date: 5-15-2012



David R. Schoech, R.Ph.
Investigative Member
Kansas Board of Pharmacy

Date: 5-21-2012

800 SW Jackson, Ste. 1414
Topeka, KS 66612

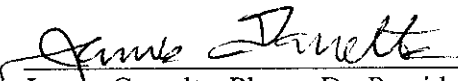


Doug M. Taylor
Compliance Counsel
Kansas Board of Pharmacy
800 SW Jackson, Ste. 1414
Topeka, KS 66612

Date: 5/17/12

APPROVAL OF THE BOARD OF PHARMACY

This Consent Agreement has been reviewed by the Kansas State Board of Pharmacy and is agreed to as of the date stated below.



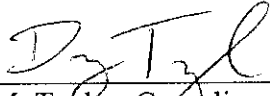
James Garrelts, Pharm.D., President
Kansas State Board of Pharmacy
800 SW Jackson St., Ste. 1414
Topeka, KS 66612

Date: 6/1/2012

CERTIFICATE OF SERVICE

I hereby certify that on this 4 day of June, 2012, I deposited a true and correct copy of the above and foregoing Consent Agreement in the United States Mail, postage prepaid, and addressed to:

Marilyn Mix
350 N. 3rd
Dighton, KS 67839



Doug M. Taylor, Compliance Counsel