

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
STEVEN STOECKER, PHARMD)
Kansas License No. 1-14152) Case No. 14-10

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and Steven Stoecker, PharmD ("Respondent") as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden, Unrein & Forbes, 1414 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by his attorney, James B. Biggs of Cavanaugh, Biggs & Lemon, P.A., 2942A S.W. Wanamaker Drive, Ste. 100, Topeka, Kansas 66614.

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 1-14152 ("Kansas License"). At all times relevant hereto, the Respondent has held a current license to engage in the practice of pharmacy in the State of Kansas.

4. The Board's Investigation Member has received certain information, investigated and determined that there are reasonable grounds to believe that Respondent has committed one or more acts in violation of K.S.A. 65-1627(a) which would justify the revocation or imposition of other disciplinary action against his Kansas License under the provisions of K.S.A. 65-1627(a)

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and the assessment of an appropriate fine against Respondent under the provisions of K.S.A. 65-1658.

5. 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 as follows:

A. On March 29, 2013 the Board, with the approval of the Respondent, entered a Consent Order in *In the Matter of Steven Stoecker, PharmD*, Case No. 12-196 (the "Consent Order"). The Consent Order was based upon allegations that Respondent had failed to fill a prescription in strict accordance with the directions of the prescribing practitioner and that Respondent self-administered a controlled substance without a practitioner's prescription. Among other things, the Consent Order required Respondent to enter into a contract with the Kansas Pharmacy Recovery Network ("KsPRN Program") operating through the Kansas Pharmacy Association Committee on Impaired Pharmacy Practice ("CIPP"). The Consent Order required that the contract be for a period of no less than five years and begin on December 27, 2012 (the "2012 KsPRN Contract"). The Consent Order further required Respondent to satisfactorily complete the terms of the 2012 KsPRN Contract. One of the terms of the 2012 KsPRN Contract was that Respondent refrain from taking any controlled substance for which he did not have a valid prescription.

B. On or about November 13, 2013, the Respondent violated the terms of the 2012 KsPRN Contract by diverting and self-administering a controlled substance for which he did not have a valid prescription. As of November 13, 2013, the Respondent was addicted to one or more controlled substances to such degree as to render him unfit to practice the profession of pharmacy.

C. On November 13, 2013 the Respondent entered into a Consent Agreement in *In the Matter of Steven Stoecker, PharmD*, Case No. 13-142 (“Consent Agreement”). Among other things, the Consent Agreement required Respondent to remain in full compliance with all requirements of his contract with KsPRN operating through CIPP.

D. On January 20, 2014 the Board, with the stipulation of the Respondent, entered a Final Agency Order in *In the Matter of Steven Stoecker, PharmD*, Case No. 13-140 (“Final Agency Order”). Among other things, the Final Agency Order required Respondent to enter into a contract with KsPRN operating through CIPP. The Consent Order required that the contract be for a period of no less than five years and begin on January 17, 2014 (“2014 KsPRN Contract”). The Final Agency Order required Respondent to satisfactorily complete the terms of the 2014 KsPRN Contract. The terms of the 2014 KsPRN Contract included requirements that Respondent comply with the requirements of the KsPRN Program for random drug testing and that Respondent refrain from taking any controlled substance for which he did not have a valid prescription.

E. On August 14, 2014, Respondent submitted a urine sample which when tested was positive for propoxyphene a narcotic pain reliever and controlled substance. Respondent did not have a legitimate prescription for propoxyphene, which was withdrawn from the United States market in November of 2010.

F. At times since entering into the 2014 KsPRN Contract, Respondent has failed to comply with the requirement that he participate in the program for random drug testing.

6. 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 appropriate disciplinary action against Respondent's Kansas License under the

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provisions of pursuant to K.S.A. 65-1627 (a)(3), as defined by K.S.A. 65-1626b (xx)(3) and (ccc)(5); K.S.A. 65-1627 (a)(5), and K.S.A. 65-1627 (a)(13).

7. The Respondent agrees and consents and the Board finds concludes and orders that the following disposition is just and appropriate under the circumstances:

A. IMPAIRED PROVIDER PROGRAM. Respondent shall fully cooperate with the recommendations and requirements of the persons managing and implementing the 2014 KsPRN Contract, the recommendations and requirements of the persons managing and implementing the evaluation and treatment programs recommended or required by the 2014 KsPRN Contract and the further requirements of the Board. Respondent shall, at all times, be in full compliance with the requirements of the 2014 KsPRN Contract and other requirements placed upon him by KsPRN, *including, but not limited to full and continued compliance with the requirement to cooperate with program the random providing of bodily fluid for drug screens, as provided in his 2014 KsPRN Contract.* The Respondent shall authorize KsPRN and any provider of evaluation or treatment programs he engages in to provide to the Board 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 2014 KsPRN Contract 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 KsPRN Agreement for a 5-year period.*

B. LICENSE LIMITATION. Until further order of the Board, Respondent shall be prohibited from dispensing prescription drugs and prohibited from practicing pharmacy or working in a setting in which he would have access to prescription drugs. No sooner than

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twelve (12) months from the effective date of the Final Agency Order contemplated hereby, if Respondent has remained in full compliance with the requirements of his 2014 KsPRN Contract, Respondent may request that the Board reconsider this limitation on Respondent's Kansas license to practice pharmacy.

C. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order he must, and the Board further orders the Respondent to

- i. Comply fully with this Stipulation and Consent Order;
- ii. Comply fully with the Kansas Pharmacy Act, the Board's rules and regulations and all state and federal laws relating to Kansas pharmacies;
- iii. *Advise the Board's Executive Secretary within 10 days of being charged with any crime.*
- iv. *Personally appear at the Board meeting at the time this Stipulation and Consent Order is considered by the Board. It shall be the Respondent's responsibility to contact the Board's Executive Director to determine when and where to appear.*

8. 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 and the Final Order provided for herein, with or without the presence of the Respondent or its attorney. In the event that this Stipulation and Consent 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 Consent Order or the information

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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.

9. The stipulations contained herein shall not become binding until this Stipulation and Consent 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 Investigation Member or its attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Consent Action or the Final Order provided for herein.

10. 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 and enter the Final Order provided for herein. 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.

11. 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.

12. 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 and in consideration of the Board's limiting the disciplinary action taken against him to those provided for herein. 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.

13. The Respondent acknowledges that he enters into this Stipulation and Consent Order freely and voluntarily after consultation with counsel of his 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.

14. Time is of the essence to this Stipulation and Consent Order. Respondent acknowledges and agrees that any violation of this Stipulation and Consent Order shall constitute a willful 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.

15. 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.


16. 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.

17. 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 and shall supersede the terms of the 2013 Consent Order.


18. 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, JD, MBA, its Executive Director at 800 SW Jackson St., Suite 1414, Topeka, KS 66612. The Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 15th day of July, 2016.

KANSAS BOARD OF PHARMACY

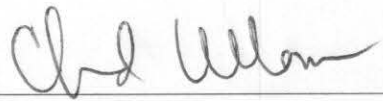
By: 
JOHN WORDEN, PHARMD
Vice President

AGREED AND APPROVED BY:



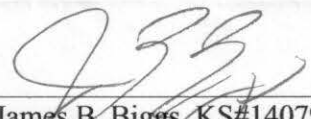
Steven Stoecker, PharmD

3/22/2016
Date




Chad Ullom, R.Ph.
Investigation Member

7/15/2016
Date



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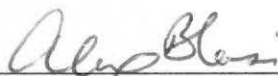
CERTIFICATE OF SERVICE

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 29th day of December, 2016 addressed to:

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