

BEFORE THE
KANSAS STATE BOARD OF PHARMACY
Landon State Office Building, Room 513
Topeka, Kansas 66612
785/296-4056

In The Matter

of

JAGDISH BHAKTA
Registered Pharmacy, #1-12951
Respondent

Case No.

CONSENT AGREEMENT AND ORDER

Now on this 24th day of June, 1999, the above-captioned matter comes before the Kansas State Board of Pharmacy (Board) by agreement of Jagdish Bhakta, (Licensee) and the Kansas State Board of Pharmacy for the purpose of settling the above-captioned case.

Licensee hereby acknowledges the following:

1. Jagdish Bhakta is a licensed pharmacist within the meaning of the Kansas Pharmacy Act, K.S.A. 65-1625 et seq. and amendments thereto.

2. On or about January 8, 1999, the Board inspectors reviewed the pharmacy practices of the respondent pursuant to the normal course of business and determined the Licensee may have violated statutes and regulations governing the practice of pharmacy, to wit:

(a) The respondent failed to correctly fill prescription #51308 in strict conformity with the directions of the prescriber in violation of K.S.A. 65-1637(a);

(b) The respondent failed to correctly fill prescription #52138 in strict conformity with the directions of the prescriber in violation of K.S.A. 65-1637(a);

(c) The respondent failed to inform the pharmacist in charge of the error in filling prescription #51308 in violation of K.A.R. 68-7-12(d)(1).

3. The Board's investigative committee conducted an investigation concerning Licensee's alleged violation of statutes and regulations.

4. During the investigation, Licensee was informed of the reported information, and was given the opportunity to respond to the allegations, and did respond to the allegations.

5. As a result of the investigation, the Board's investigative committee finds there are reasonable grounds to bring proceedings based upon the following possible violations of the Kansas Pharmacy Act and its implementing rules and regulations:

(a) The respondent incorrectly fill prescription #51308 in strict conformity with the directions of the prescriber in violation of K.S.A. 65-1637(a);

(b) The respondent incorrectly fill prescription #52138 in strict conformity with the directions of the prescriber in violation of K.S.A. 65-1637(a);

(c) The respondent failed to inform the pharmacist in charge of the error in filling prescription #51308 in violation of K.A.R. 68-7-12(d)(1).

HOWEVER, Licensee and the Board mutually desire to enter into the Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations.

WHEREFORE Licensee, without admitting to the claimed violations, waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas administrative procedure act in relation to this matter.

WHEREFORE Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas act for judicial review in relation to this matter.

WHEREFORE Licensee consents to:

(a) pay a Five Hundred (\$500.00) dollar administrative fine;

(b) ~~joining the Kansas Pharmacist Association;~~ *with CAO. 5*

(c) one year of mentoring every two weeks by a pharmacist acceptable to the Kansas State Board of Pharmacy;

(d) not serve as a "pharmacist in charge" for one year after the CAO has been accepted by the board;

(e) six months probation;

(f) cooperating with any investigation the board may have with regard to his former employer regarding violations of Kansas pharmacy law, rules and regulations;

(g) appear before the Board of Pharmacy to present the proposed Consent Agreement and Order for consideration.

(h) This Consent Agreement and Order constitutes the entire agreement between the Licensee and may be modified or amended only by written agreement signed by the parties.

(i) Notification of the Consent Agreement and Order shall be provided to another jurisdiction's licensing board if the Licensee is also licensed, registered or certified in another jurisdiction.

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

(k) Evidence of Licensee's willful failure to comply with any of the conditions will result in a hearing, with notice and opportunity to be heard, to determine whether Licensee has in fact willfully failed to comply with any conditions. Upon determination at such hearing that Licensee has willfully breached, violated or failed to comply with any condition, Licensee understands his license may be revoked.

(l) Licensee acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional status which would inhibit compliance with conditions. In such event, a designee of the Board is authorized to modify or amend this Consent Agreement and Order in writing.

WHEREFORE, the Board agrees to provide the respondent with the 1999 Edition of *Kansas Pharmacy and Related Laws* without charge.

WHEREFORE Licensee consents to the submission of this Consent Agreement and Order to the Kansas State Board of Pharmacy, and understands that upon approval of the Board, this Consent Agreement and Order becomes a final order of the Board.

WHEREFORE Licensee agrees that all information in the possession of the Board or its attorney regarding the complaint which led to this matter, the investigation of the complaint and all information discovered during the pendency of the matter may be disclosed to and considered by the Board as part of the presentation and consideration of the proposal of settlement in the form of this Consent Agreement and Order and the Final Order provided for herein, with or without the presence of the licensee or the licensee's attorney. In the event that this Consent Agreement and Order provided for herein are not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Consent Agreement and Order or the information mentioned in the preceding sentence and further agrees to waive any claim of due

process violation or the right to seek the disqualification of any Board member as a result of the Board member's consideration of said document and information.

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

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

IT IS SO ORDERED.

Lori Moore
Lori Moore, Chair
Kansas State Board of Pharmacy

APPROVED AND CONSENTED TO:

[Signature]
Licensee

6/24/99
(Date)

SUBMITTED AND APPROVED BY:

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

6/24/99
(Date)

E. Dudley Smith
ATTORNEY FOR MR. BHAKTA
Fisher, Patterson, Sayler
and Smith
210 UMB Bank Building
11050 Roe Avenue
Overland Park, KS 66211

6/24/99
(Date)

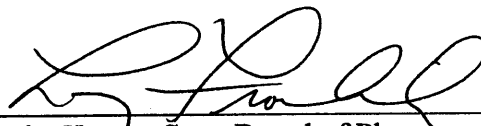
Certificate of Service

This is to certify that on the 24th day of June, 1999 a true and correct copy of the above and foregoing Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Wm. Scott Hesse
Assistant Attorney General
2d Floor, Judicial Center
Topeka, Kansas 66614

E. Dudley Smith
Fisher, Patterson, Saylor
and Smith
210 UMB Bank Building
11050 Roe Avenue
Overland Park, KS 66211

Jagdish Bhakta
3150 South Broadway
Wichita, KS 67216



For the Kansas State Board of Pharmacy