

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

In The Matter }  
 }  
 of } Case No.  
 }  
 MICHAEL W. BURNS, }  
 Registered Pharmacist, #1-11392, }  
 Pharmacist in Charge, #2-07959, }  
 Respondent }  
 \_\_\_\_\_ }

CONSENT AGREEMENT AND ORDER

Now on this 24<sup>th</sup> day of June, 1999, the above-captioned matter comes before the Kansas State Board of Pharmacy (Board) by agreement of Michael W. Burns, (Licensee) and the Kansas State Board of Pharmacy for the purpose of settling the above-captioned case.

Licensee hereby acknowledges the following:

1. Michael W. Burns 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 March 31, 1999, the Board's investigator, Carly Haynes inspected Burns Pharmacy at 122 E. 5<sup>th</sup> Street, Garnett, Kansas in response to a complaint made by a consumer. In the course of that investigation, the boards inspector discovered the following violations of the regulations governing the practice of pharmacy, to wit:

(a) The respondent failed to have completed daily written prescription logs for the following 27 days, November 25, 1998, December 1, 1998, December 24, 1998, December 26, 1998, December 30, 1998, January 9, 1999, January 14, 1999, January 23, 1999, January 26, 1999, January 27, 1999, February 2, 1999, February 5, 1999, February 6, 1999, February 10, 1999, February 12, 1999, February 13, 1999, February 19, 1999, February 22, 1999, February 27, 1999, March 2, 1999, March 4, 1999, March 6, 1999, March 10, 1999, March 16, 1999, March 19, 1999, March 20, 1999

and March 27, 1999.

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 makes the following factual determination that on the days listed in paragraph 2 above the respondent failed to keep daily prescription logs.

6. As a result of the investigation, the Board determined that reasonable grounds exist to believe the Licensee has violated 27 counts of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-9-1(a)(9).

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 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) An administrative fine in the amount of One Thousand Three Hundred Fifty (\$1,350.00) dollars.

(b) 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.

(c) Licensee shall be responsible for all costs incurred in satisfying the terms of the Consent Agreement and Order.

(d) 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.

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

(f) 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 and agrees that the license shall be revoked.

(g) The licensee shall appear before the board on the date that this matter is scheduled for hearing to personally present this consent agreement and order to the board for consideration.

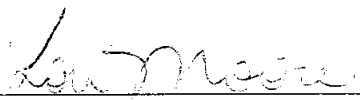
WHEREFORE Licensee consents to the submission of this Consent Agreement and Order to the Kansas State Board of Pharmacy, and understands that upon approval of the Board, this Consent Agreement and Order becomes a final order of the Board.

WHEREFORE Licensee agrees that all information in the possession of the Board or its attorney regarding the complaint which led to this disciplinary action, the investigation of the complaint 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 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.

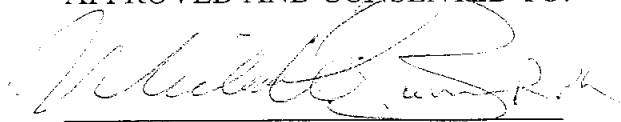
WHEREFORE the Board agrees that so long as licensee complies with the above conditions that the Board will not initiate further disciplinary action against Licensee in relation to violation of K.S.A. 65-1625 et seq regarding this matter.

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.

  
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Lori Moore, Chair  
Kansas State Board of Pharmacy

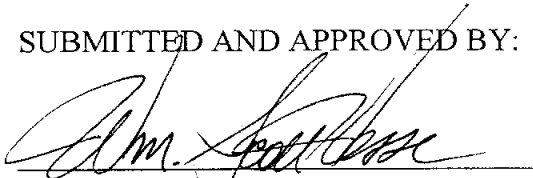
APPROVED AND CONSENTED TO:



Licensee

6-16-99  
(Date)

SUBMITTED AND APPROVED BY:



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

6/24/99  
(Date)

Certificate of Service

This is to certify that on the 24<sup>th</sup> day of June, 1999 a true and correct copy of the above and foregoing Consent Agreement and Order was either hand delivered or 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

Michael W. Burns  
Burns Pharmacy  
122 E. 5<sup>th</sup> Street  
Garnett, Kansas 66032

  
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For the Kansas State Board of Pharmacy