

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
) Case No. 21-051
BENJAMIN C. DANDURAND, R.Ph.)
Kansas License No. 1-15646)

STIPULATION AND CONSENT ORDER

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

1. The Board is represented herein by its attorney, Brenda L. Head of Frieden & Forbes, 1414 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by his attorney, _____

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 1-15646 ("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) and the assessment of an appropriate fine against Respondent under the provisions of KS.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:

A. While Respondent was the Pharmacy Compounding Clinical Coordinator at University of Kansas Hospital Southlake Retail Pharmacy (#2-103873), he had access to the drugs and to change the computer inventory adjustments to cover diversion of drugs. The November 3, 2020 Amended DEA-106 shows the quantity of drugs that were unaccounted for and alleged to be diverted by Respondent as follows:

Tramadol 50mg	670 tablets
Zolpidem 10 mg	115 tablets
Zaleplon 10 mg	2 capsules
Oxycodone 5 mg. solution	2500

Additionally, the DEA-106 shows generic ultram (1) tablet and sonata (2) capsules were found in Respondent's office.

B. The Respondent admits to diverting controlled substances to himself who did not have a valid prescription for the drugs on multiple occasions. In October, 2020, during a phone interview with his employer, Respondent admitted to the wrongful diversion of multiple controlled substances, including zolpidem and tramadol for his own personal use over an extended time period. Additionally, in a written statement to the Board on December 17, 2020, Respondent admitted to the wrongful diversion of multiple controlled substances, including zolpidem, tramadol and oxycodone to himself over an extended period of time.

C. The Respondent does not have the patient or prescription records required by the Pharmacy Law.

D. Diverting controlled substances to an individual who does not have a prescription for the drug poses a serious health risk to that individual and other individuals who may come into possession of the drugs.

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 pursuant to K.S.A. 65-1627(a)(3), (4), (5), (8) and (13).

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

A. **SUSPENSION.** Respondent hereby agrees and consents to the Board's entry of an order whereby his license to practice pharmacy in the State of Kansas is suspended for a period of not less than one (1) year from Respondent's enrollment in the Committee on Impaired Practice Program ("CIPP") which requires one (1) year of clean drug tests before Respondent may request reinstatement from the Board. If Respondent commits an act during the suspension period that constitutes a violation of the Pharmacy Practices Act or the Board's regulations or fails to meet any condition set out in this stipulation the period of suspension continues.

B. **KsPRN REQUIREMENT.**

1. The Respondent, if he has not already done so, shall immediately enter into a *Statement of Understanding* agreement with the Kansas Pharmacists Association ("KPhA") and the Committee on Impaired Pharmacy Practice Program ("CIPP") which

operates the Kansas Pharmacist Recovery Network (“KsPRN”) for a period of no less than five (5) years. Respondent shall fully cooperate with the recommendations and requirements of the persons managing and implementing the evaluation and treatment program recommended and requested by the KsPRN Agreement and the further requirements of the Board. Respondent shall, at all times, be in full compliance with the requirements of the KsPRN Agreement and other requirements placed upon him by the KsPRN, *including, but not limited to, full and continued compliance with the requirement to cooperate with requests for random body fluid drug screens as provided in the KsPRN Agreement.*

2. The Respondent shall authorize KsPRN 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, records and medical reports.

C. PROBATION. The Respondent agrees and the Board orders that the Respondent’s Kansas License will be placed on a status of probation after the reinstatement from suspension and during the period of time of his enrollment in KsPRN.

D. PERMANENT LICENSE RESTRICTIONS. The Respondent agrees and the Board orders that Respondent shall not ever serve as Pharmacist-in-Charge or Preceptor.

E. NOTIFICATIONS. The Respondent agrees and the Board orders that Respondent shall:

- i. Require any pharmacy or drug-related employer to acknowledge receipt of this Stipulation and Consent Order;
- ii. Notify the Board of all contact information and employment changes within ten (10) days; and

- iii. Notify the Board of any criminal arrest and/or charges within ten (10) days.

F. 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:

1. Comply fully with this Stipulation and Consent Order; and
2. Comply fully with the Kansas Pharmacy Act, the Board's rules and regulations and all state and federal laws relating to Kansas pharmacies.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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 Consent Order provided for herein.

12. 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 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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 Secretary at 800 SW Jackson St., Suite 1414, Topeka, KS 66612. The Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 7th day of December, 2021.

KANSAS BOARD OF PHARMACY

By: 
DR. JONATHAN BRUNSWIG, PharmD
President

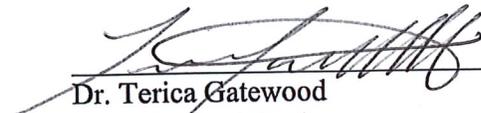
AGREED AND APPROVED BY:



Benjamin C. Dandurand, R.Ph.

11-12-2021

Date



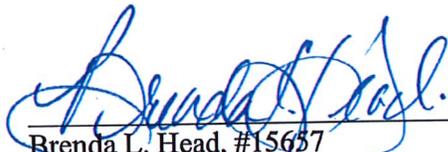
Dr. Terica Gatewood
Investigation Member

12/2/21

Date

Respondent's Attorney

Date



Brenda L. Head, #15657
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1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
(785) 354-1100
bhead@fflawllp.com
Counsel for the Kansas Board of Pharmacy

11-15-2021

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 7th day of December, 2021 addressed to:

Brenda L. Head
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604

Benjamin C. Dandurand, R.Ph.
2900 W. 93rd Terrace
Leawood, KS 66206



Representative of the
KANSAS BOARD OF PHARMACY