

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

In The Matter }  
 }  
 of }  
 RANDY FILE, }  
 Registered Pharmacy, #1-09670, }  
 Respondent }  
 \_\_\_\_\_ }

Case No.

CONSENT AGREEMENT AND ORDER

Now on this 18<sup>th</sup> day of November, 1999, the above-captioned matter comes before the Kansas State Board of Pharmacy (Board) by agreement of Randy File, (Licensee) and the Kansas State Board of Pharmacy for the purpose of settling the above-captioned case.

Licensee hereby acknowledges the following:

1. Randy File 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 June 1, 1999, the Board received a report of information concerning Licensee's conduct alleging Licensee may have violated statutes and regulations governing the practice of pharmacy, to wit:

(a) The diversion by the licensee of hydrocodone and other prescription medicines from the Coffeyville Regional Medical Center.

(b) Assisting Heather Kline, another licensee of the Board, with the diversion of controlled substances and prescription medicines from the Coffeyville Regional Medical Center.

(c) The licensee's self-administration of hydrocodone and other prescription medications from the Coffeyville Regional Medical Center without a prescription.

(d) The dispensing of schedule III, IV and V controlled substances without a written prescription from an individual, licensed practitioner.

(e) The licensee failed to supervise all personnel and maintain control of prescription medication in the medical care facility when he allowed Heather Kline, R.Ph. to divert 255 pints of Lortab elixir and other prescription drugs.

3. The Board 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 determinations:

(a) The diversion by the licensee of hydrocodone and other prescription medicines from the Coffeyville Regional Medical Center.

(b) Assisting Heather Kline, another licensee of the Board, with the diversion of controlled substances and prescription medicines from the Coffeyville Regional Medical Center.

(c) The licensee's self-administration of hydrocodone ~~and other prescription medications~~ from the Coffeyville Regional Medical Center without a prescription.

(d) The dispensing of schedule III, IV and V controlled substances without a written prescription from an individual, licensed practitioner.

(e) The licensee failed to supervise all personnel and maintain control of prescription medication in the medical care facility when he allowed Heather Kline, R.Ph. to divert Lortab elixir and other prescription drugs.

6. As a result of the investigation, the Board determined that reasonable grounds exist to believe the Licensee has violated K.S.A. 65-1627(a)(3) as defined by K.S.A. 65-1626(hh)(5) for the diversion of hydrocodone; K.S.A. 65-1627(a)(3) as defined by K.S.A. 65-1626(hh)(5) for the diversion of controlled substances; K.S.A. 65-1627(a)(13) for the self administration of drugs without a prescription; the dispensation of controlled substances without a prescription in violation of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-20-20(a)(1); and the failure to supervise all personnel and maintain control of prescription medication in the medical care facility in violation of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-7-11(a).

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 pleads *nolo contendere* to the charge that the licensee dispensed a

WSH  
WDA  
RRF  
Dle

Wherefore, licensee pleads *nolo contendere* to the charge that the licensee self-administered hydrocodone from the Coffeyville Regional Medical Center without a prescription. DU, WSH  
RRF

controlled substance, notably hydrocodone, from the Coffeyville Regional Medical Center Hospital Pharmacy without a prescription in violation of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-20-20(a)(1).

WHEREFORE Licensee pleads *nolo contendere* to the charge that the licensee to supervise all personnel and maintain control of prescription medication in the medical care facility in violation of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-7-11(a).

WHEREFORE the board dismisses all other charges against the licensee with prejudice.

WHEREFORE, Licensee waives 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 the board finds there is sufficient competent evidence to find that the licensee has violated one count of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-20-20(a)(1) and one count of K.S.A. 65-1627(a)(8) as defined by K.A.R. 68-7-11(a).

WHEREFORE Licensee consents to:

(a) Entering into the Kansas Impaired Provider Program (KIPP) and remaining in said program for a five<sup>yr.</sup> period of time commencing on the date this Consent Agreement and Order are accepted by the Board. The Board acknowledges that the licensee is currently enrolled in the Kansas Impaired Provider Program.

(b) A ~~ten~~ <sup>FIFTEEN</sup> thousand dollar (~~\$10,000.00~~ <sup>\$15,000</sup>) and no cent fine to be paid in sixty (60) monthly installments of ~~One Hundred Sixty Six dollars and 07 cents (\$167.67)~~ <sup>Two Hundred Fifty 250.00</sup> payable to the State of Kansas on or before the first day of every month commencing on or before December 1, 1999. ~~RRF~~

(c) Five years probation commencing on the date this Consent Agreement and Order are accepted by the Board.

(d) Notification of the Board of any employment or change of employment during the period of time the licensee is on probation within five days of the date of such change in employment status.

(e) Notification of every employer the licensee is employed with during the period of time the licensee is on probation prior to the change in employment status.

(f) The licensee shall not be a pharmacist in charge (PIC) during the period of time the

licensee is on probation.

(g) 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.

(h) Licensee shall be responsible for all costs incurred in satisfying the terms of the Consent Agreement and Order. The Board acknowledges there are no costs to date.

(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 and agrees that the license shall 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.

(m) The licensee shall appear in person before the Kansas State Board of Pharmacy to respond to any questions or comments that may be posed by the board. The next scheduled meeting of the Kansas State Board of Pharmacy is November 18, 1999.

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.

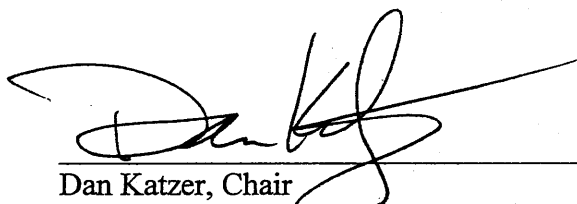
WHEREFORE Licensee agrees that all information in the possession of the Board or its attorney regarding the complaint which led to this disciplinary action, the investigation of the complaint and all information discovered during the pendency of the disciplinary action may be disclosed to and considered 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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Dan Katzer, Chair  
Kansas State Board of Pharmacy

APPROVED AND CONSENTED TO:

11-18-99  
(Date)

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

11/18/99  
(Date)

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

11/18/99  
(Date)

Certificate of Service

This is to certify that on the 18<sup>th</sup> day of November, 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

Randy File  
Clay Center, Kansas

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

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For the Kansas State Board of Pharmacy