

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Michael C Fillmore, PharmD)
License No. 1-13456)

Case No.: 13-01

CONSENT ORDER AND FINAL AGENCY ORDER

COMES NOW, the Kansas Board of Pharmacy (the "Board"), by and through Christina Morris, Board Counsel ("Petitioner") and Michael C. Fillmore, PharmD (Licensee), and moves the Board for approval of Consent Order and Final Agency Order affecting Licensee's license to practice pharmacy in the state of Kansas. The Parties stipulate and agree to the following:

THEREUPON, being duly advised in the matter, the Board and Licensee agree as follows:

AUTHORITY

The Kansas Administrative Procedure Act specifically authorizes parties to resolve matters as expeditiously as possible without the need for evidentiary hearings or more formal proceedings under the Act. K.S.A. 77-505. It is the intent of both parties to avoid proceedings to formally limit, suspend, or revoke Licensee's privilege to function as a pharmacist in the state of Kansas. Therefore, Licensee voluntarily agrees to the terms and conditions contained herein.

WAIVER OF RIGHTS

Licensee understands that he has the following rights in this case: The right to discovery, a hearing before the Board, and if found in violation of the Kansas Pharmacy

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Act, the right to appear before the District Court and Kansas appellate courts pursuant to the Kansas Judicial Review Act (the "KJRA"). Knowing these rights, Licensee, by signing this agreement, knowingly and voluntarily suspends these rights at this time, including the right to a hearing by the Board.

Licensee hereby acknowledges his right to be represented by a lawyer of his own choosing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Board has jurisdiction over Licensee, his license to practice pharmacy and the subject matter of this Consent Agreement and Final Agency Order pursuant to the provisions of K.S.A. 65-1601 *et seq.*, otherwise known as the Kansas Pharmacy Act.
2. Licensee was licensed to practice as a pharmacist in the state of Kansas at all times relevant to the disciplinary action in this case. His license was issued on June 25, 2003 and was last renewed on July 2, 2012 with an expiration date of June 30, 2014.
3. Licensee hereby admits that the following facts are true and waives any further proof in this or any other proceeding before or initiated by the Board in this case.
4. Licensee's last known address of record with the Board is: 1201 Money St., Lot 114, Augusta, Kansas 67010.
5. On or around January 9, 2013, the Licensee was employed by Dillon's Pharmacy located at 9450 E. Harry, Wichita, Kansas.
6. Licensee admitted to taking hydrocodone 10 mg and Keflex for his own use from the pharmacy.

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7. Licensee advised that he had a previous back injury and that he did not have a prescription from a physician and was self- medicating.
8. The Licensee was arrested by the Wichita Police after he admitted to diverting controlled substances for his own use.
9. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Kansas Pharmacy Act and the Kansas Controlled Substance Act with respect to the above allegations and findings.
10. Pursuant to K.S.A. 65-1627(a), the Board may revoke, suspend, limit, censure or place Licensee's license under probationary conditions as follows:
 - (3) the licensee has been found by the board to be guilty of unprofessional conduct or professional incompetency;
 - (4) the Licensee is addicted to the liquor or drug habit to such a degree as to render the licensee unfit to practice the professional of pharmacy;
 - (5) the licensee has violated a provision of the federal or state food, drug, and cosmetic act, the uniform controlled substances act of the state of Kansas, or any rule and regulation adopted under any such act.
 - (8) the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act;
 - (13) the licensee has self-administered any controlled substance without a practitioner's prescription order or a mid-level practitioner's prescription order.

12. The Board finds and concludes, and Licensee agrees, that based upon Licensee's above-described violations of the Kansas Pharmacy Act, the following discipline is just and appropriate under the circumstances.

DISPOSITION

13. The Licensee shall be placed on a **five (5) year probation**. Credit toward satisfying the five-year period of probation shall be given only when Licensee is in total compliance with all provisions of this order.

The prescribed period of probation shall not run during any period of time during which:

- a. Licensee is not actively participating in the KsPRN program as approved by the Board.
- b. Licensee is not otherwise in full compliance with the terms of the Consent Agreement.

14. Licensee will enter into a contract with KsPRN Peer Assistance Program. As a term of this Order and the Licensee's probationary status, Licensee is required to successfully complete the contract with KsPRN. Licensee must remain in the KsPRN program until such time as he completes the program, is released from its terms of the contract, and provides written documentation of release from KsPRN program to the Board for its approval of said release.

11. Licensee agrees that he is responsible to contact KsPRN within ten (10) days of the final execution of this Order to make sure that he has signed all documents necessary for KsPRN to provide monitoring.

12. Licensee shall submit to urine or blood tests during participation in the treatment program contract, as ordered by KsPRN, at a frequency determined by the Committee on Impaired Pharmacy Providers (CIPP). All screens or tests shall be administered and monitored by an approved program personnel. A missed urine screen or blood test shall be presumed positive for prohibited substances. Use or ingestion of poppy seeds or hemp oil shall not excuse a positive urine screen or blood test. Licensee must submit satisfactory verified tests results for all random urine screening or blood testing conducted as part of her treatment program with the Consent Order.

13. Licensee shall comply fully and in a timely manner with all requirements, recommendations and directions of the treatment program and the KsPRN.

Requirements, recommendations, and directions may include:

- i. Submission by Licensee to such examinations as the KsPRN may deem appropriate to determine Licensee's physical or mental condition and/or his ability to practice pharmacy safely.
- ii. The taking by Licensee of such therapy courses of training or education as may be needed to correct deficiencies found by such examinations;
- iii. The review and supervision of Licensee's pharmacy practice as may be necessary to determine the quality of his practice and to correct deficiencies therein; and
- iv. The imposition of restrictions upon the nature of Licensee's practice to assure that he does not practice beyond the limits of his capabilities.

14. Licensee hereby waives any right or claim of confidentiality against the treatment program for any information, test results or other data pertaining to Licensee's rehabilitation progress, or lack thereof, and will execute a release authorizing the treatment program to release any and all information pertaining to Licensee's case to the KsPRN or Board, upon the request of either. Licensee shall keep all releases current and in effect.
15. Licensee must immediately notify the Board in writing if he withdraws from, is removed from, is terminated from, or otherwise fails to participate fully and satisfactorily in his approved program.
16. Upon successful completion of the KsPRN program, Licensee may request that the Board discharge him from the treatment program by filing a Petition for Reconsideration. All terms of the treatment program (along with the terms of this Order) must be completed prior to such petition. The Board will determine whether Licensee's discharge from the treatment program is appropriate after consideration of the Petition for Reconsideration, accompanying documents and certifications, and any other relevant evidence.
17. Licensee shall not serve as a manager, supervisor, preceptor, or consultant at any Kansas pharmacy during the probationary period. Licensee shall not practice pharmacy at more than three pharmacies per quarterly reporting period.
18. Prior to accepting employment or changing location of any employment which requires a pharmacist license, Licensee shall provide a complete copy of this Order to each pharmacist manager and immediate supervisor at each location in

the state of Kansas at which Licensee intends to practice pharmacy during the probationary period.

19. Licensee shall not work alone during the probationary period.
20. Licensee shall not fill prescriptions for himself or any of his immediate family members.
21. Licensee shall not serve as a pharmacist-in-charge during the probationary period.
22. Licensee shall practice a recovery program that emphasizes and entails abstinence from all mood altering drugs or alcohol.
23. Within thirty (30) days after Licensee accepts employment or changes location of any employment as a pharmacist in the state of Kansas, each pharmacist manager and immediate supervisor shall submit a written report to KsPRN using forms provided by KsPRN setting forth:
 - a. The name and address of the employer of Licensee and the name of the pharmacist manager and immediate supervisor.
 - b. The duties and responsibilities to be carried out by Licensee.
 - c. An acknowledgement from Licensee's pharmacist manager and immediate supervisor that he or she has received a complete copy of this Order, and that he or she has read and understands its contents, including the nature of the misconduct which forms the basis of this disciplinary action; and
 - d. An affirmative statement that the pharmacist manager and immediate supervisor agree to notify the Board, in writing, within seventy-two (72) hours of any evidence of a subsequent violation by Licensee of a violation of this Order, or

of the Kansas Pharmacy Act, or Board rules and regulations governing the practice of pharmacy.

e. If there is a change in the management and/or supervision of Licensee where Licensee is employed in the practice of pharmacy, Licensee agrees to provide a complete copy of this Order to his new manager and/or supervisor, immediately upon that new manager or supervisor assuming his or her duties. Within thirty (30) days of receipt of the Order, the new manager or supervisor shall report said receipt to KsPRN as well as fulfill requirements of paragraphs 26 (a) through (d) as indicated above.

24. Credit towards the completion of this probationary period shall only be given during such periods of time that Licensee is in total compliance with all provisions of the Consent Agreement.

25. The terms and conditions of this Consent Agreement shall become effective on the day it is approved, accepted and made an order of the Board as a result of the execution and issuance of the Consent Agreement.

26. Upon execution by all parties the Consent Agreement shall be a public record, maintained in the custody of the Board.

27. Discharge from the requirements of the Consent Agreement must be requested in writing by Licensee. The Board will consider any request for discharge during the ordinary course of business. It shall be Licensee's sole responsibility to establish, through written or other documentation, that Licensee has met all terms and conditions of the Consent Agreement. Licensee's probationary period shall continue until formally discharged by a Board by Pharmacy order.

28. Failure to comply with these terms and conditions shall be deemed a violation of the Consent Agreement, and shall result in any and all sanctions against Licensee's license allowed by law, including but not limited to suspension or revocation of Licensee's license to practice pharmacy in the State of Kansas.

AGREEMENT OF THE PARTIES

The parties below have read this Consent Agreement, know and understand its contents, and agree to comply with its terms. Licensee specifically agrees to waive the constitutional rights enumerated above.

Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order under K.S.A. 65-1627f. This Consent Order shall constitute the Board's Order when filed with the office of the Executive Secretary for the Board and no further Order is required.

This Consent Order constitutes disciplinary action. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact and conclusions of law.

IT IS FURTHER ORDERED that the Board will retain jurisdiction over this matter and the Licensee.

IT IS SO ORDERED on this 29 day of March, 2013.

**FOR THE KANSAS STATE BOARD OF
PHARMACY**

Michael C. Fillmore, PharmD
Kansas License No. 01-13456
Consent Order

David Schoech

David Schoech
President

04/14/2013

Date

Michael C. Fillmore

Michael C. Fillmore, PharmD
Licensee

5/2/13

Date


CERTIFICATE OF SERVICE

I hereby certify that I did, on the 13th day of May, 2013, deposit in the United States Mail, postage prepaid, and a fully executed copy of the foregoing Consent Agreement, properly addressed to the following:

Michael C. Fillmore, PharmD
1201 Money St., Lot 114
Augusta, KS 67010

And the original filed with the office of:

Debra Billingsley
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Ste. 1414
Topeka, Kansas 66612



Board Authorized Signature