



BEFORE THE KANSAS BOARD OF PHARMACY

In The Matter of)	
ANTHONY C. KUBAYKO,)	CASE NO. 99-69
Registered Pharmacist #1-11469)	
Respondent)	
_____)	

CONSENT AGREEMENT AND ORDER

Now on November 6, 2001, the above-captioned matter comes before the Kansas Board of Pharmacy (Board) by agreement of Anthony C. Kubayko (Respondent) and the Kansas Board of Pharmacy for the purpose of resolving the above-captioned matter.

Respondent hereby acknowledges the following:

1. Anthony C. Kubayko is currently, and at all times relevant, has been, licensed as a Pharmacist pursuant to 65-1627, et seq. with license #1-11469.
2. Respondent's address last known address is 10825 Baltimore, Kansas City, Missouri, 64114.
3. The Board received information concerning Respondent's conduct alleging Respondent may have violated the Pharmacy Act of the State of Kansas pursuant to 65-1625, et seq., and specifically K.S.A. 65-1627(a)(3) [unprofessional conduct - defined by K.S.A. 65-1626(hh)(5) as the "unlawful possession of drugs and unlawful diversion of drugs to others] and K.S.A. 65-1627(a)(13) [self-administration of a

controlled substance without a practitioner's prescription order.

4. The board may discipline the respondent, Craig Kubayko, pursuant to K.S.A. 65-1627(a)(12) if the board determines the respondent has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

5. On or about October 19, 2000, Respondent, a holder of a license to practice pharmacy issued by the Missouri State Board of Pharmacy, was disciplined by the Missouri State Board of Pharmacy for acts committed by respondent in violation of statutes and regulations governing the practice of pharmacy in the state of Missouri. Specifically, respondent entered into a Joint Stipulation of Facts and Conclusions of Law, Waiver of Hearings Before the Administrative Hearing Commission and State Board of Pharmacy and Disciplinary Order whereby Respondent voluntarily surrendered his Missouri license to practice pharmacy. A true and correct certified copy of the Complaint, Answer, Joint Stipulation of Facts and Conclusions of Law, Waiver of Hearings Before the Administrative Hearing Commission and State Board of Pharmacy and Disciplinary Order, and Affidavit of Voluntary Surrender of Pharmacist License, constituting the record of the action of the other jurisdiction in the case entitled Missouri Board of Pharmacy v Anthony C. Kubayko, Case No. 99-3528-PH, are attached collectively hereto as

Exhibit A and incorporated herein by reference.

6. The Board conducted an investigation concerning Respondent's alleged violation of statutes and regulations.

7. As a result of the investigation, the Board finds reasonable cause to believe, and Respondent hereby expressly, and without reservation, admits that evidence of a clear and convincing nature exists that would prove that Respondent has violated the Pharmacy Act of the State of Kansas pursuant to K.S.A. 65-1625, et seq.,

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

WHEREFORE, Respondent 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 the facts set forth herein.

WHEREFORE Respondent 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 the facts set forth herein.

WHEREFORE Respondent agrees that the Board has jurisdiction in this matter and Respondent voluntarily submits to said jurisdiction.

WHEREFORE Respondent consents and agrees to the following:

A. Voluntary Surrender and Resulting Revocation of Kansas license

#1-11469. Respondent hereby voluntarily surrenders his Kansas license #1-11469 to

the Kansas Board of Pharmacy, and in so doing, expressly understands, acknowledges and agrees without any reservations whatsoever, the Board will enter an order of revocation of said license upon Respondent's admission that evidence of a clear and convincing nature exists that would prove that Respondent violated the Kansas Pharmacy Act and said order of revocation will be made concurrently with the Board's acceptance of the voluntary surrender of Respondent's license. Respondent agrees to forthwith return to the Board any and all licenses and any official documentation of said licenses. Respondent further expressly acknowledges, understands and agrees that good cause exists for the making and entering of said Final Order of revocation.

B. Consideration of Admitted Facts in the Event of Application for

Licensure. Respondent expressly understands, acknowledges and agrees without any reservations whatsoever, that in the event Respondent applies to the Board for licensure at any time in the future, the Board may consider the violations herein admitted by Respondent, as well as any and all evidence of violations the Board has in its possession or at its disposal, in making a determination of whether to grant any such application for licensure.

C. Acknowledgments and Affirmations. Respondent acknowledges that he has read the Consent Agreement and Order in its entirety and affirms that he enters into it voluntarily, after the opportunity to consult with counsel of his choice and with full understanding of its legal consequences. Respondent executes and submits this Consent Agreement and Order to the Board with the acknowledgment that once it is

accepted, approved and made an order of the Board, it shall be given the same force and effect as a Final Order entered as a result of a formal disciplinary proceeding, specifically the pending administrative petition on file with the Board in case number 99-69. Respondent acknowledges that the Consent Agreement is not effective unless and until accepted by the Board as an order of the Board. If the Board does not accept the Consent Agreement and Order, Respondent waives any right he may have to object to the composition of any subsequent hearing panel due to the hearing panel members having knowledge of matters contained within the Consent Agreement and Order.

D. Reporting to Other Jurisdictions. Respondent acknowledges that notification of the Consent Agreement and Order shall be provided to another state licensing board if Respondent is also licensed, registered or certified in another state or states, and the Board shall disclose the Consent Agreement and Order to other licensing boards or others upon request, and that the Order of Revocation constitutes agency action and is a reportable Final Agency Order.

E. Consent Agreement and Order Constitutes Entire Agreement. Respondent acknowledges that the Consent Agreement and Order constitutes the entire agreement between Respondent and the Board, and may be modified or amended only by written agreement signed by Respondent and the Board or a designee of the Board, except as otherwise provided in the Consent Agreement and Order.

WHEREFORE Respondent consents to the submission of the Consent

Agreement and Order to the Kansas Board of Pharmacy and understands that upon approval of the Board, the Consent Agreement and Order becomes a final order of the Board.

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

WHEREFORE the tendered voluntary surrender of Registered Pharmacist license #1-11469 is accepted by the Board upon the signing of this order and revocation of Registered Pharmacist license #1-11469 is effective upon the signing of this order.

IT IS SO ORDERED.

11/6/2001
Date

Vicki Schmidt
Vicki Schmidt
President, Kansas Board of Pharmacy

APPROVED AND CONSENTED TO:

Anthony C. Kubayko
Anthony C. Kubayko

11/2/2001
(date)

APPROVED AS TO FORM AND SUBSTANCE:

Jonathan A. Bortnick
Jonathan A. Bortnick
Attorney for Anthony C. Kubayko

11/2/01
(date)

CERTIFICATE OF SERVICE

This to certify that on the _____ day of _____, 2001, 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:

Anthony C. Kubayko
504 East 108th Terrace
Kansas City, Missouri 64131

Jonathan A. Bortnick
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Susan Linn, Executive Director
Kansas Board of Pharmacy