

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
KINGSLEY C. UBAH, PharmD) Case No. 14-24
)
Kansas License No. 1-15999)

Filed By
NOV 14 2014
KANSAS STATE
BOARD OF PHARMACY

STIPULATION AND FINAL AGENCY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and Kingsley C. Ubah, PharmD. ("Respondent") as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden, Unrein & Forbes, 1414 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by his attorneys, Jerry Boyle and Rebecca Mann of Young, Bogle, McCausland, Wells & Blanchard, PA.

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 1-15999 ("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 K.S.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, that:

(a) On March 19, 2014 Respondent was working as a pharmacist at Walgreen # 5793 at 710 N. West Street, Wichita, Kansas.

(b) On March 19, 2014 Respondent incorrectly created a prescription for Mirapex 0.25 mg (pramipexole) for Patient SC (the "Incorrect Prescription"), a four year old child, from a phone message left by a prescriber. Thereafter, Respondent filled the Incorrect Prescription, performed a final verification and dispensed the Incorrect Prescription, along with correct prescriptions, to Patient SC's father. Respondent failed to offer to counsel the father regarding the prescriptions, as required by K.A.R. 68-2-20 (c)(1). Respondent failed to identify the error despite the fact that Mirapex is typically prescribed to treat Parkinsonism.

(c) After Patient SC's father returned the Incorrect Prescription, Respondent deleted electronic and paper records of the prescription.

(d) Even after learning of his error, Respondent failed to complete an incident report or inform the pharmacy's pharmacist-in-charge.

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 under the provisions of K.S.A. 65-1627 (a)(6) and (8).

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

A. ADMINISTRATIVE FINE. Respondent shall pay to the Board an administrative fine in the amount of Seven Hundred and Fifty Dollars (\$750.00) within ten (10) days of the effective date of the Final Agency Order contemplated hereby.

B. CONTINUING EDUCATION. Within 30 days of November 15, 2014, Respondent shall complete the 18 hour online course entitled *Patient Safety – Medication Error Reduction for Pharmacists* available through the Oregon State University College of Pharmacy and provide proof thereof to the Board's Executive Secretary. The continuing education hours obtained to meet this requirement may not be used to meet the continuing education requirements necessary to obtain renewal of Respondent's pharmacy license.

C. PARE EXAMINATION. Respondent shall, at his own expense, arrange for, take, and pass the PARE Examination administered through the National Association of Boards of Pharmacy on or before June 1, 2015.

D. PROBATION. Respondent's Kansas license to practice pharmacy shall be on probationary status for a period of 365 days from the effective date of the Final Agency Order contemplated hereby.

E. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Final Agency Order it must:

1. Comply fully with this Stipulation and Final Agency Order;
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 Final Agency Order and the Final Order provided for herein, with or without the presence of the Respondent or its attorney. In the event that this Stipulation and Final Agency Order and the Final 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 Stipulation and Final Agency 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 Final Agency Action is approved by the Board and the Final Order provided for herein is entered 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 Final Agency Action or the Final Order provided for herein.

9. The Respondent agrees that this Stipulation and Final Agency Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it and enter the Final Order provided for herein. 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 Procedures 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 Final Agency Order and the Final Order provided for herein.

12. The Respondent acknowledges that he enters into this Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of his choosing. The Respondent further acknowledges that he has read this Stipulation and Final Agency 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 Final Agency Order. Respondent acknowledges and agrees that any violation of this Stipulation and Final Agency 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 Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Final Agency Order.

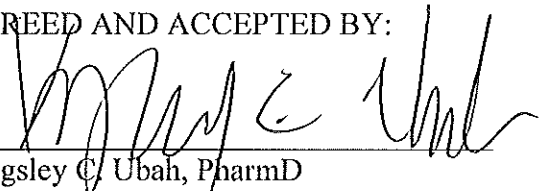
14. This Stipulation and Final Agency Order constitutes the entire and final agreement of the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Stipulation and Final Agency Order shall be given full force and effect.

15. Upon approval and entry of the Final Order by the Board, this Stipulation and Final Agency Order shall be a public record in the custody of the Board.

16. This Stipulation and Final Agency 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 Debra Billingsley, its Executive Secretary at 800 SW Jackson St., Suite 1414, Topeka, KS 66612. The Respondent hereby waives those rights.

AGREED AND ACCEPTED BY:

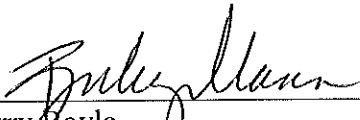

Kingsley C. Ubah, PharmD


Date

Michael Lonergan, R.Ph.
Investigation Member


Date

APPROVED BY:

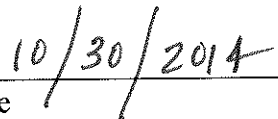


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Date

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
) Case No. 14-24
KINGSLEY C. UBAH, PharmD)
Kansas License No. 1-15999)

FINAL AGENCY ORDER

Upon motion duly made, seconded and passed, the Kansas Pharmacy Board (the "Board") approves and accepts the within Stipulation and Final Agency Order and incorporates the provisions thereof as the Final Order of the Board. In addition to the other requirements of the Stipulation, it is specifically ordered:

A. ADMINISTRATIVE FINE. Respondent shall pay to the Board an administrative fine in the amount of Seven Hundred and Fifty (\$750.00) within ten (10) days of the effective date of this Final Agency Order.

B. CONTINUING EDUCATION. Within 30 days of the effective date of this Final Agency Order, Respondent shall complete the online course entitled *Patient Safety – Medication Error Reduction for Pharmacists* available through the Oregon State University College of Pharmacy and provide proof thereof to the Board's Executive Secretary. The continuing education hours obtained to meet this requirement may not be used to meet the continuing education requirements necessary to obtain renewal of Respondent's pharmacy license.

C. PARE EXAMINATION. Respondent shall, at his own expense, arrange for, take, and pass the PARE Examination administered through the National Association of Boards of Pharmacy on or before June 1, 2015.

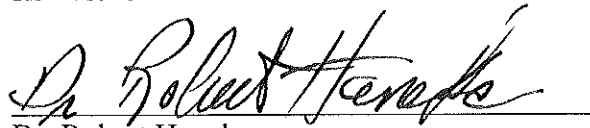
D. PROBATION. Respondent's Kansas license to practice pharmacy shall be on probationary status for a period of 365 days from the effective date of this Final Agency Order.

IT IS SO ORDERED.

ENTERED AND EFFECTIVE this 12th day of November, 2014.

KANSAS BOARD OF PHARMACY

By:



Dr. Robert Haneke
President

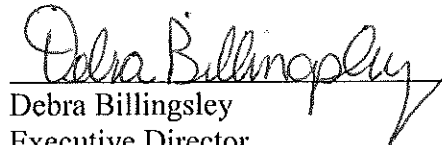
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing STIPULATION AND FINAL AGENCY ORDER was served by depositing same in the United States mail, postage prepaid, this 14 day of November, 2014 addressed to:

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Debra Billingsley
Executive Director
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