

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
CHAD ULLOM, R.PH.)
)
Kansas License No. 1-12503)

Case No. 20-009

STIPULATION AND CONSENT ORDER

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

1. The Board is represented herein by its attorney, Randall J. Forbes 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.*, ("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 1-12503 ("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:

A. At all times relevant hereto, Respondent was the Pharmacist-in-Charge (“PIC”) of Walgreens #3069 pharmacy located at 1001 Topeka Blvd., Topeka, Kansas (“Pharmacy”).

B. On January 2, 2020, a written prescription for Roxanol Liquid, 30 ml, 20mg./ml was delivered to the Pharmacy to be filled for a hospice patient (“Prescription”).

C. Respondent did not find Roxanol in the Pharmacy computer system and filled the prescription with oxycodone solution, 30 ml, 20 mg./ml incorrectly believing at the time that Roxanol liquid and oxycodone solution were the identical products (“Misfill”). The Prescription was not filled in strict conformance with the prescriber’s order as required by K.S.A. 65-1637(g). The Oxycodone solution was administered to the hospice patient. On January 3, 2020, a hospice nurse reported the error in filling the prescription to Respondent. The Misfill was a “reportable incident” as that term is defined by the Board’s regulations.

D. A Board Inspector received from Respondent an Incident Report for the Misfill. The substance of the Incident Report did not mention Respondent. The Incident Report identified pharmacy technician KH as having performed the patient entry and prescription entry for the Prescription, but Respondent indicated to the Board’s Inspector that it was Respondent who had entered the Prescription into the Pharmacy’s computer system. The Incident Report

identified pharmacist MC as having performed both the Up-front Verification and the Product Review, but on several occasions Respondent indicated to the Board's Inspector that Respondent was responsible for dispensing the incorrect medication and had performed the Up-front Verification and that pharmacist MC had performed only the Product Review. In an email to the Director of Operations at the hospice, Respondent indicated that he had dispensed the incorrect medication because he had not seen Roxanol prescribed in such a long time.

E. As the involved pharmacist and the PIC, Respondent was responsible to ensure that an appropriate incident report was prepared accurately and maintained in the records of the Pharmacy. Respondent failed to fulfill these obligations.

F. Pursuant to K.A.R. 68-7-12(a), Respondent, as PIC of the Pharmacy, was responsible to develop, supervise and coordinate all pharmaceutical services carried on in the Pharmacy to ensure compliance with the Act and the Board's regulations.

6. 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)(6) and (a)(8).

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

A. **INCIDENT REPORT.** Within 3 business days of the effective date of the Consent Order contemplated hereby, Respondent shall provide to the Board a revised Incident Report for the January 2, 2020 Misfill incident described in paragraph 5 above which includes accurate information regarding patient entry, prescription entry, up-front review, and product review.

B. CONTINUOUS QUALITY IMPROVEMENT MEETING REPORT.

Within 3 business days of the effective date of the Consent Order contemplated hereby, Respondent shall provide to the Board a Continuous Quality Improvement meeting report that includes the Misfill incident discussed in paragraph 5 above.

C. CONTINUING EDUCATION. Within 90 days of the effective date of the Consent Order contemplated hereby, Respondent shall provide to the Board proof that he has completed no less than 15 hours of continuing education on the topic of medication errors. These continuing education hours may not be used by Respondent to fulfill a continuing education requirement to obtain renewal of his Kansas License.

D. 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;
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.

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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 21st day of September, 2020.

KANSAS BOARD OF PHARMACY

By:



DR. JONATHAN BRUNSWIG
President

AGREED AND APPROVED BY:

Chad Ullom

Chad Ullom, R.Ph.

6/3/20

Date

Terica Gatewood

Dr. Terica Gatewood
Investigation Member

9/14/2020

Date

Respondent's Attorney's Name & Address

Randall J. Forbes

Randall J. Forbes, KS#09089 MO#64335
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
(785) 354-1100

Date

06/26/2020

Date

Counsel for the Kansas Board of Pharmacy

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 21st day of September, 2020 addressed to:

Randall J. Forbes
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604

Chad Ullom, R.Ph.
1001 SW Topeka Blvd.
Topeka, Ks



Representative of the
KANSAS BOARD OF PHARMACY