

Filed  
JUN 09 2010  
KANSAS STATE  
Board of Pharmacy

**BEFORE THE KANSAS STATE BOARD OF PHARMACY**

In the Matter of )  
 )  
Karen Moeder, R.Ph. ) Case No. 09-95  
Kansas License No. 1-12799 )  
\_\_\_\_\_ )

**STIPULATION AND FINAL AGENCY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas State Board of Pharmacy Board (the "Board") and Karen E. Moeder, R.Ph. ("Respondent" or "Registrant"), as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden, Unrein Forbes & Biggs, LLP, 555 South Kansas Avenue, Suite 303, Topeka, Kansas 66603. The Respondent is represented herein by her attorney, \_\_\_\_\_,

\_\_\_\_\_.

2. The Board is the Kansas agency vested with the authority to carry out and enforce the provisions of the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.*, including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas registration to operate a pharmacy.

3. Respondent currently holds Kansas License No. 1-11502 to engage in the practice of pharmacy in the State of Kansas. By Consent Order and Stipulation and Final Agency Order

dated September 21, 2005, Respondent agreed and was ordered to not practice pharmacy in the State of Kansas until further order of the Board.

4. The Board has received certain information, has investigated and has determined that there are reasonable grounds to believe that the Respondent has committed an act or acts in violation of the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.*

Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board that Respondent took and consumed prescription drugs belonging to her employer and for which Respondent did not have a valid prescription.

On September 21, 2005, the Respondent and the Board entered into a Consent Agreement and a Stipulation and Final Agency Order, whereby Respondent consented to an order to not practice pharmacy until further order of the Board, and to enter into an agreement with the Kansas Pharmacy Impaired Provider Program for a period of no less than 5 years. The Board has received information that the Respondent's agreement with the Kansas Pharmacy Impaired Provider Program has been extended beyond the original five year term and now expires on June 4, 2012.

The Board finds and concludes that Respondent's conduct, as described above, violates various provisions of the Pharmacy Act and regulations promulgated pursuant and is grounds for disciplinary action against her license to practice pharmacy in the State of Kansas pursuant to K.S.A. 65-1627(a)(3), as defined by K.S.A. 65-1626(nn)(5) and (rr)(5); K.S.A. 65-1627(a)(5), and K.S.A. 65-1627(a)(13).

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

A. IMPAIRED PROVIDER PROGRAM. Respondent shall continue her agreement with the Kansas Pharmacy Impaired Provider Program until June 4, 2012. Respondent shall fully cooperate with the recommendations and requirements of the person managing and implementing the Kansas Pharmacy Impaired Provider Program, the recommendations and requirements of the persons managing and implementing the evaluation and treatment programs recommended or required by the Kansas Pharmacy Impaired Provider Program and the further requirements of the Board. Respondent shall at all times be in full compliance with the requirements of the Kansas Pharmacy Impaired Provider Program. The Licensee shall authorize the Kansas Pharmacy Impaired Provider Program and any provider of evaluation or treatment programs she engages in to provide full and complete documentation and information regarding the Respondent's involvement in the programs, her evaluations and treatment, including, but not limited to, all records and medical reports.

B. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Final Agency Order she 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 pharmacists;

7. Respondent stipulates and agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and/or its attorneys regarding the investigation which led 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 Agency Order provided for herein, with or without the presence of Respondent or her attorney. In the event that this Stipulation and Final Agency Order and the Final Agency Order provided for herein are not accepted and approved by the Board, 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 right and/or claim of right under any provision of law, including any actual or alleged entitlement to due process of law, to seek or obtain the disqualification of any Board member as a result of the Board member's consideration of said document and information.

8. Except as provided in Paragraph 7 above, the stipulations and agreements set forth herein shall not become binding until this Stipulation and Final Agency Action is approved by the Board and the Final Agency Order provided for herein is entered by the Board. Respondent acknowledges that the approval of the Board's Investigation Member or its attorney shall not constitute the approval of the Board nor obligate the Board to approve this Stipulation and Final Agency Action or the Final Order provided for herein.

9. 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. Respondent further agrees 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 and Final Agency Order constitutes the entire agreement of the parties and no term, condition or provision hereof may be altered, modified or amended except pursuant to a subsequent written agreement signed by the parties. This Stipulation and Final

Agency Order shall be governed by and interpreted in accordance with the laws of the State of Kansas.

11. Respondent acknowledges that he has the following rights:

A. To have formal notice of charges served upon her;

B. To file a response to the charges;

C. To have notice of and participate in a formal adjudicative hearing with the Board 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 and the Act for Judicial Review and Civil Enforcement of Agency Action.

Respondent freely waives these rights and acknowledges that said waiver is made voluntarily and in consideration of the Board's agreement to limit any disciplinary action against Respondent in Case No. 09-95 in accordance with the terms and conditions of this Stipulation and Final Agency Order. Respondent further waives any and all rights she has or may have to seek administrative reconsideration, to seek judicial review by any court, or to otherwise contest this Stipulation and Final Agency Order and the Final Order provided for herein.

12. Respondent acknowledges that she enters into this Stipulation and Final Agency Order freely and voluntarily after consultation or a reasonable opportunity to consult with counsel of her choosing. Respondent further acknowledges that she has read this Stipulation and Final Agency Order in its entirety and that she understands its legal consequences. Respondent

stipulates and agrees that none of the terms, conditions or provisions of this Stipulation and Final Agency Order are unconscionable, arbitrary, capricious or otherwise unreasonable.

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 be deemed to be a willful violation of a lawful Board order and constitutes reasonable grounds for further disciplinary action against her. 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 that any term, condition or provision of this Stipulation and Final Agency Order is held to be invalid or unenforceable by a court of competent jurisdiction, it shall be severed and all remaining terms, conditions and/or provisions of this Stipulation and Final Agency Order shall be given full force and effect.

15. Upon execution by all parties, this Stipulation and Final Agency Order shall be classified and maintained as a public record of the Kansas State Board of Pharmacy.

16. This Stipulation and Final Agency Order 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 Final Agency Order provided for herein.

17. Respondent acknowledges that she has been advised by the Board that she would have the right within 15 days after service of the Final Agency Order provided for herein to file a petition for reconsideration with the Board and the right within 30 days after service of the Final Agency Order provided for herein to file a petition for judicial review in the District Court of

Shawnee County, Kansas in accordance with the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.*, and to serve such a petition for judicial review on the Kansas Pharmacy Board by serving Debra Billingsley, its Executive Secretary, at 900 SW Jackson Street, Topeka, Kansas 66612-1231. The Respondent hereby expressly waives all such rights.

**AGREED TO AND ACCEPTED BY:**

By: Karen E. Moeder  
Karen E. Moeder

5/15/2010  
Date

Shirley Arck  
Shirley Arck, Pharm. D.  
Investigative Member of the Board

6/9/10  
Date

**APPROVED BY:**

\_\_\_\_\_  
Signature of Respondent's Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Respondent's Attorney

\_\_\_\_\_  
Address of Respondent's Attorney



5.19.10

\_\_\_\_\_  
Randall J. Forbes                      KS #09089  
FRIEDEN, UNREIN, FORBES & BIGGS, LLP  
555 S. Kansas Avenue, Suite 303  
Topeka, Kansas 66603  
TEL: 785/354-1100  
FAX: 785/354-1113  
DISCIPLINARY COUNSEL FOR THE BOARD

\_\_\_\_\_  
Date



**BEFORE THE KANSAS STATE BOARD OF PHARMACY**

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**FINAL AGENCY ORDER**

Upon motion duly made, seconded and passed, the Kansas State Board of Pharmacy (the "Board") approves and accepts the within Stipulation and Final Agency Order and hereby fully incorporates by this reference all provisions, findings, conclusions, terms and conditions therein as the final order of the Board in Case No. 09-95.

ENTERED AND EFFECTIVE this 9<sup>th</sup> day of June, 2010.

KANSAS STATE BOARD OF PHARMACY

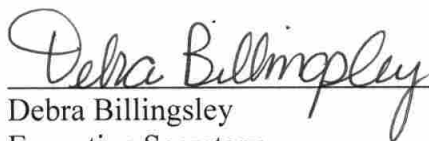
By: Kam S. Braman  
President

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a genuine copy of the above and foregoing **STIPULATION AND FINAL AGENCY ORDER** was served by depositing same in the United States mail, postage prepaid, on this 9 day of June, 2010, properly addressed to:

Karen Moeder, R.Ph.  
207 W. 22nd Street  
Hays, Kansas 67601

Randall J. Forbes  
FRIEDEN, UNREIN, FORBES & BIGGS, LLP  
555 S. Kansas Avenue, Suite 303  
Topeka, Kansas 66603



Debra Billingsley  
Executive Secretary  
Kansas State Board of Pharmacy