

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
) Case No. 18-557
RONALD RILEY, R.Ph.)
)
Kansas License No. 1-09536)

STIPULATION AND CONSENT ORDER

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

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden & Forbes, LLP, 1411 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by his attorney, Mark A. Lynch of Simpson, Logback, Lynch, Norris P.A., 7400 West 110th Street, Suite 600, Overland Park, Kansas 66210

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 1-09536. At all times relevant hereto, the Respondent has held a current license to engage in the practice of pharmacy in the State of Kansas (hereinafter "Kansas License").

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 K.S.A. 65-1627(a) that would justify discipline of Respondent's Kansas License under the provisions of K.S.A. 65-1627(a).

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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 owner and pharmacist-in-charge of Candlewood Health Mart Pharmacy, located at 3254 Kimball Avenue, Manhattan, Kansas ("Pharmacy").

b. For an approximate period of six (6) months, from February 2018 until August 2018, Respondent took and consumed clonazepam 1 mg from the Pharmacy without a valid prescription.

c. Prior to taking and consuming clonazepam 1 mg without a valid prescription as described in subparagraph b above, Respondent had been prescribed clonazepam by a primary care physician for insomnia; however, Respondent's new primary care physician cycled Respondent off of clonazepam approximately one (1) year prior to Respondent taking and consuming clonazepam without a valid prescription.

d. Moreover, during the approximate six (6) month period Respondent was taking and consuming clonazepam 1 mg without a valid prescription, Respondent consumed 6 to 8 ounces of alcohol daily, after work. According to Respondent, the consumption of alcohol and clonazepam 1 mg was to aid him in falling asleep.

e. Respondent voluntarily reported his clonazepam 1 mg and alcohol use to the Kansas Pharmacists Recovery Network ("KSPRN") and underwent an initial evaluation on or about August 15, 2018 ("Initial Evaluation"). The Initial Evaluation concluded that Respondent met the criteria for and/or showed a high probability of having a substance use disorder. The Initial

Evaluation recommended that Respondent enroll in and complete a Level III.3 Residential Treatment Program.

f. On or about October 2, 2018, Respondent voluntarily enrolled in a Level III.3 Residential Treatment Program.

g. On or about October 9, 2018, Respondent was discharged from the Level III.3 Residential Treatment Program after developing a continuing care plan.

6. Respondent voluntarily entered into a Statement of Understanding agreement with the Kansas Pharmacists Association Committee on Impaired Pharmacy Practice Program (“CIPP Agreement”), with a term of 5 years on September 22, 2018.

7. 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 disciplinary action against Respondent's Kansas License pursuant to K.S.A. 65-1627(a)(3) for engaging in unprofessional conduct as defined by K.S.A. 65-1626(ttt)(5) through the unlawful possession of a drug; pursuant to K.S.A. 65-1627(a)(5) for violation of the uniform controlled substances act of the State of Kansas; and pursuant to K.S.A. 65-1627(a)(13) for self-administering a controlled substance without a practitioner's prescription order.

8. The Board finds, concludes and orders, and the Respondent agrees and acknowledges that the following disposition is just and appropriate under the circumstances:

A. **IMPAIRED PROVIDER PROGRAM.** Respondent shall fully cooperate with the recommendations and requirements of the persons managing and implementing the CIPP Agreement, the recommendations and requirements of the persons managing and implementing the evaluation and treatment programs recommended or required by the CIPP Agreement and the further requirements of the Board. Respondent shall, at all times, be in full

compliance with the requirements of the CIPP Agreement and other requirement placed upon him by the Kansas Pharmacists Association Committee on Impaired Pharmacy Practice Program ("CIPP"), *including, but not limited to full and continued compliance with the requirement to cooperate with requests for random bodily fluid drug screens, as provided in his CIPP Agreement.* The Respondent shall authorize CIPP and any provider of evaluation or treatment programs he engages in to provide full and complete documentation and information regarding the Respondent's involvement in the programs, his evaluations and treatment, including, but not limited to, all records and medical reports. *The Respondent shall not be released from the requirements of the CIPP Agreement until he has made a request to the Board for release, appeared before the Board and provided proof sufficient to the Board that he has been in substantial compliance with the CIPP agreement for a 5-year period.*

B. PROBATION. Respondent's Kansas License shall be placed on probationary status for a period of five (5) years from the effective date of this Stipulation and Consent Order and shall be lifted upon the Board finding that Respondent has been in substantial compliance with the CIPP Agreement for a 5-year period.

C. TERMS AND CONDITIONS. During the period of probation, Respondent will be entitled to practice the profession of pharmacy pursuant to the Act provided Respondent adheres to the following terms and conditions of probation:

1. Respondent shall not serve as a pharmacist-in-charge or in a supervisory capacity with any pharmacy in the State of Kansas without prior written approval from the Board.
2. Respondent shall surrender his keys to the Pharmacy to the individual serving as Pharmacist-in-Charge of the Pharmacy.

3. Respondent shall implement and maintain a program at the Pharmacy requiring a perpetual inventory of all controlled substances and drugs of concern and requiring that the inventory be audited weekly by the Pharmacist-in-Charge of the Pharmacy

4. Respondent shall keep the Board apprised of his current home and work addresses and telephone numbers. If at any time Respondent is employed by a temporary employment agency or maintains employment that requires frequent daily or weekly changes of work location, he must provide the Board with all scheduled places of employment in writing prior to any scheduled work time.

5. Respondent shall report any change in health status to the Board.

6. If, at any time after the effective date of this Stipulation and Consent Order and before expiration of the period of probation, Respondent ceases to keep his Kansas License current or fails to keep the Board advised of his current place of employment and residence, any and all such periods of time shall be excluded in computing and determining the expiration date of the five (5) years of probation prescribed herein.

7. Respondent shall pay all required fees for licensing to the Board and shall renew his license in a timely manner as required by law.

8. Respondent shall comply with all provisions of the Act, and the rules and regulations of the Board applicable to licensed pharmacists and all applicable federal and state drug laws, rules and regulations and with all federal and state criminal laws. For purposes of this subsection, "state" includes the State of Kansas and all other states and territories of the United States.

9. Respondent shall make himself available for personal interviews to be conducted by any member of the Board or the staff of the Board. These interviews will be at

the Board's discretion and may occur periodically during the period of probation. Respondent will be notified and given sufficient time to arrange these interviews. If Respondent's place of residence and employment at the time of any such personal interview is located in a State other than the State of Kansas, the interview shall be conducted by telephone, at Respondent's place of residence or employment or at any other location mutually agreed upon and confirmed in a separate writing signed by the parties. At least 24 hours prior to any scheduled interview to be conducted by telephone, Respondent shall furnish the Board staff with the telephone number at which he may be reached at the time of such interview.

10. Respondent's failure to comply with any provision set forth in this Stipulation and Consent Order constitutes a violation of the terms or conditions of probation. Any violation of a term or condition of probation may result in revocation of Respondent's Kansas License.

11. Respondent shall provide all current and future pharmacy and drug distributor employers and/or pharmacists-in-charge a copy of this Stipulation and Consent Order within five (5) business days of the effective date hereof and/or the beginning date of each employment. If at any time Respondent is employed by a temporary employment agency, he must provide each pharmacy and drug distributor employer and pharmacist-in-charge a copy of this Stipulation and Consent Order prior to or at the time of any scheduled work assignments.

D. ADMINISTRATIVE FINE. Within ten (10) days of the effective date of the Consent Order contemplated hereby, Respondent shall pay to the Board an administrative fine in the amount of Five Thousand Dollars (\$5,000.00).

E. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order he must:

1. Comply fully with this Stipulation and Consent Order;
2. Comply fully with the Act, the Board's rules and regulations and all state

and federal laws relating to Kansas pharmacists;

9. 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.

10. 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.

11. 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.

12. This Stipulation and Consent Order 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.

13. 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. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order and the Final Order provided for herein.

14. 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.

15. 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.

16. 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.

17. 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.

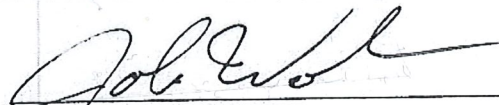
18. This Stipulation and Consent Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's authorized representative.

19. 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, its Executive Secretary at 800 SW Jackson St., Suite 1414, Topeka, KS 66612-1244. The Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 18th day of October, 2019.

KANSAS BOARD OF PHARMACY

By:




DR. JOHN WORDEN
President


Matter of Ronald Riley, No. 18-557 (Kan. Bd. of Pharmacy)

STIPULATION AND CONSENT ORDER

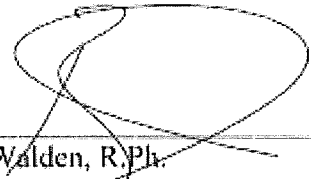
AGREED AND APPROVED BY:


Ronald Riley, R.Ph.

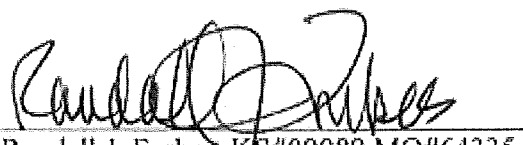
9. 20 2019
Date


Mark A. Lynch, KS#14277
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7400 West 110th Street, Suite 600
Overland Park, Kansas 66210
Counsel for the Respondent

9/24/19
Date


Bill Walden, R.Ph.
Investigative Member

10/3/2019
Date


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FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
Counsel for the Kansas Board of Pharmacy

09/27/2019
Date

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 18th day of October, 2019 addressed to:

Randall J. Forbes
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Topeka, KS 66604

Ronald Riley, R.Ph.
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Representative of the Executive Director
KANSAS BOARD OF PHARMACY