

**STATE OF KANSAS  
BEFORE THE KANSAS STATE BOARD OF PHARMACY**

In the Matter of )  
 )  
Jeffrey W. Rivers, R.Ph. )  
Kansas License No. 1-12334 )  
\_\_\_\_\_ )

Case No. 10-23

Filed  
JUN 09 2010  
KANSAS STATE  
Board of Pharmacy

**SETTLEMENT AGREEMENT AND FINAL ORDER**

The above captioned matter comes before the Kansas State Board of Pharmacy ("Board"), by agreement of the parties, for the purpose of settling the above-captioned administrative proceeding. Licensee appears in person and without counsel. The Board appears by William C. Rein, Disciplinary Counsel. There are no other appearances.

The purpose of appearances by the parties is to resolve this matter without the need for an evidentiary hearing or more formal proceedings under the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*

This Settlement Agreement and Final Order ("Final Order") is based upon the following stipulations of fact which are agreed to by the Licensee and the Board.

**STIPULATIONS OF FACT**

1. The Board is charged with the administration of the Kansas Pharmacy Act (K.S.A. 65-1626, *et seq.*) and with the enforcement of the rules and regulations promulgated thereunder (K.A.R. 68-1-1a *et seq.*). Licensee is Jeffrey W. Rivers, R.Ph, License No. 1-12334, who currently resides at 1719 Linden Lane, Atchison, Kansas 66002. Licensee is subject to all laws and regulations pertaining to the practice of pharmacy administered by the Board.

2. Pursuant to laws and regulations pertaining to the practice of pharmacy, the Board is authorized to conduct hearings, summary proceedings, and emergency proceedings under the Kansas

Administrative Procedure Act. These proceedings could result in suspension, revocation, and other disciplinary action affecting Licensee's ability to work as a Registered Pharmacist in the State of Kansas.

3. On April 9, 2010, Licensee was tested for the presence of prohibited substances in his urine using the 8506U Basic Medical Professional Panel. The test was positive for Opiate, Dihydrocodeine, and Hydrocodone. The presence of these substances in the Licensee's urine violated the terms of a Stipulation and Final Agency Order ("Agency Order") issued by the Board on September 12, 2006 in Case No. 06-64. More specifically, the Agency Order required the Licensee to "fully cooperate with the recommendations and requirements of the persons managing and implementing the Kansas Pharmacy Impaired Provider Program . . . and the further requirements of the Board." Agency Order, P. 2

4. By letter dated April 16, 2010, Sharon Iverson, Director of the Kansas Committee on Impaired Pharmacy Practice sponsored by the Kansas Pharmacists Association ("CIPP"), informed Licensee that he was not in compliance with that program due to testing positive for prohibited drugs and substances in his urine. A copy of Ms. Iverson's letter to Licensee was received by Board's Director on April 19, 2010.

5. On April 24, 2010, Licensee signed and returned to the Board an Initial Consent Agreement which required him to immediately cease working as a pharmacist. With Licensee's assurance that he would not work as a pharmacist until an evaluation of alleged violations of CIPP protocols and requirements could be completed, the Board determined that it would not immediately initiate emergency proceedings to suspend or revoke Licensee's license to practice pharmacy.

6. While the Initial Consent Agreement mentioned in the previous paragraph was being drafted and circulated for approval by the parties, Licensee was evaluated for possible relapse of substance abuse. The evaluation was conducted by Duane L. Olberding, LSCSW, Clinical Director,

Professional Treatment Services, LLC of Lawrence, Kansas. Mr. Olberding concluded that the Axis I Diagnosis of Licensee included 304.00 Opioid Dependence, relapse and 304.10 Sedative Dependence. However, Mr. Olberding further concluded that the Licensee was “competent to work at this time if he immediately enters a treatment program and is assessed on a weekly basis.” See Evaluation Summary of Duane L. Olberding, LSCSW, Clinical Director, Professional Treatment Services, LLC of Lawrence, Kansas dated April 20, 2010

7. On April 27, 2010, Disciplinary Counsel for the Board, William C. Rein of Topeka, Kansas, contacted Licensee by telephone to discuss his willingness to comply with the recommendations set forth in the evaluation report from Professional Treatment Services, LLC and the requirements of CIPP. Licensee informed Mr. Rein that he was signing a new agreement with CIPP which would be effective beginning on April 28, 2010.

8. The Kansas Administrative Procedure Act specifically authorizes parties to resolve matters as expeditiously as possible without the need for evidentiary hearings or more formal proceedings under the Act. K.S.A. 77-505 It is the intent of both parties to avoid an evidentiary hearing in this matter if all issues may be resolved through less formal means.

### **STIPULATIONS**

9. Licensee affirmatively states that the Board had probable cause to initiate this proceeding. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive and release, acquit and forever discharge the Board, its respective members and any of its employees, agents, disciplinary attorneys or other attorneys, including any former board members, employees, agents, disciplinary attorneys and other attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claim(s) under the Kansas Tort Claims Act, Kansas common law, and 42 U.S.C. Section 1983, and any claim(s) for

attorney's fees and/or expenses under any state or federal statute or regulation, including 42 U.S.C. Section 1988, which may be based upon, arise out of, or relate to any of the matters raised in this proceeding or from the negotiation or execution of this Settlement Agreement and Final Order. The parties expressly acknowledge and agree that this paragraph is severable from the remaining portions of this Settlement Agreement and Final Order in that it survives in perpetuity even in the event that any court of law deems this Settlement Agreement and Final Order or any portion thereof void or unenforceable.

10. Licensee affirmatively states that he has signed a new agreement with CIPP which became effective on April 28, 2010. Licensee agrees to comply with all requirements of CIPP as they may pertain to monitoring and treatment for substance abuse, including any requirements for mandatory drug testing/urinalysis, alcohol/drug abuse counseling and treatment, and regular attendance at Alcoholics Anonymous/Narcotics Anonymous meetings. Licensee also agrees to comply with requirements established by referral evaluators and treatment providers of CIPP during his period of probation.

11. Licensee agrees to comply with all state and federal pharmacy laws, state and federal pharmacy regulations, and requirements of the Board.

12. Licensee acknowledges that he has had the opportunity to have this Agreement reviewed by counsel and is entering into the same of his own free will and volition. Licensee waives his rights to appear by legal counsel, have an evidentiary hearing, request reconsideration by the Board, seek judicial review pursuant to the Kansas Act for Judicial Review (K.S.A. 77-601, *et seq.*), and exercise other rights specifically provided by the Kansas Administrative Procedure Act or the Act for Judicial Review.

13. Licensee acknowledges that no promises have been made by the Board or its counsel concerning continued licensure of Licensee. Future decisions of the Board will depend upon the facts

existing at the time of those decisions. The purpose of this Settlement Agreement and Final Order is to resolve the issues which gave rise to this proceeding only.

14. Licensee agrees that should he violate any terms, conditions, or orders of the Board set forth herein, any evidence which gave rise to the need for this Settlement Agreement and Final Order may be used in any disciplinary proceeding initiated by the Board.

15. Upon written request by the Board or its Director, Licensee agrees to submit, or authorize the submission of, evaluation or treatment records from any healthcare provider pertaining to the issues of alcohol or substance abuse. Failure of the Licensee to submit such records for the Board's inspection will be grounds for disciplinary action up to and including suspension or revocation of his License to practice pharmacy in the State of Kansas.

16. This Agreement contains the entire understanding of the parties hereto, and supersedes all prior negotiations and agreements between the parties, oral or written, relative to the settlement referenced herein.

17. By affixing their signatures hereunto, Licensee and the Board's Disciplinary Counsel consent to the issuance of a Final Order based upon the above stated findings of fact and stipulations.

18. Upon issuance of this Final Order, Licensee understands and agrees that it will become a public record of the Board and that the limitations it places on the Licensee's practice of pharmacy may be disclosed to employers and other licensed pharmacists as necessary to better ensure that its provisions will be followed and enforced.

#### **ORDERS OF THE BOARD**

19. Based upon the above findings of fact and stipulations, the parties agree to the following orders by the Board:

a. The Licensee will enter into a five year contract with CIPP for continuing evaluation, treatment, and monitoring as established by CIPP in its sole discretion and judgment. The Licensee will fully participate in all requirements of CIPP and any failure to do so may result in disciplinary action by the Board. Specifically, disciplinary action may be undertaken by summary proceedings, emergency proceedings, or a petition to suspend or revoke the Licensee's license to practice pharmacy in the State of Kansas. In its sole discretion and judgment, the Board may take any other disciplinary action authorized by the Kansas Administrative Procedure Act.

b. If the Licensee has not already done so, he shall, at his cost, sign a contract with CIPP as specified in the previous paragraph within one week following the date of this Final Order. If he has not already done so, the Licensee shall notify the Board, in writing, that he has signed the contract. The Licensee shall also notify the Board, in writing, within one week of his failure to satisfactorily fulfill any condition or requirement established for his treatment and monitoring by CIPP. In the event that the Licensee fails to comply with any requirement of CIPP, the Board reserves the right to proceed with a formal disciplinary action or to approve any new conditions established by CIPP or the Board.

c. During the duration of the five year contract with CIPP, Licensee agrees not to accept any position as a pharmacist in charge.

d. During the duration of the five year contract with CIPP, Licensee agrees not to serve as a preceptor.

e. During the duration of the five year contract with CIPP, Licensee agrees not to work alone.

f. Licensee shall mail the Board a copy of his five year contract with CIPP.

g. Licensee shall be allowed to practice pharmacy within the scope of practice for a R.Ph. and the limitations prescribed by the Orders of the Board set forth above.

h. Licensee shall appear at the Board meeting at which this matter will be considered and resolved. The Licensee understands and agrees that the Board may review all investigative and treatment records giving rise to this action and the proper resolutions thereof.

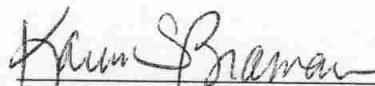
i. Licensee shall at all times comply with the Kansas Pharmacy Act and other statutes and regulations, whether state or federal, pertaining to the practice of pharmacy.

**FINAL ORDER**

Pursuant to the findings of fact and stipulations referenced herein, the provisions hereof are made the Final Order of the Board.

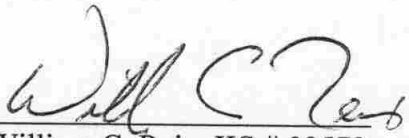
**IT IS SO ORDERED.**

Dated this 9<sup>th</sup> day of June, 2010.

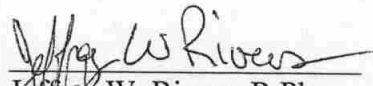


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SEEN AND AGREED TO BY:

  
William C. Rein KS # 09579  
Disciplinary Counsel  
Kansas State Board of Pharmacy  
(785) 266-3790

Date: 5/26/2010

  
Jeffrey W. Rivers, R.Ph.  
1719 Linden Lane  
Atchison, Kansas 66002  
(913) 360-2179

Date: 5-23-10

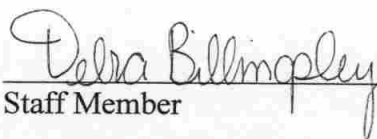
**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of June, 2010, I deposited a true and correct copy of the above and forgoing "Settlement Agreement and Final Order" in the United States Mail, postage prepaid, and addressed to:

Jeffrey W. Rivers, R.Ph.  
1719 Linden Lane  
Atchison, Kansas 66002

William C. Rein KS # 09579  
Disciplinary Counsel  
Kansas State Board of Pharmacy

*Direct Mailing Address:*  
William C. Rein  
1831 SE 43<sup>rd</sup> Terrace  
Topeka, KS 66609

  
Staff Member