

**BEFORE THE KANSAS BOARD OF PHARMACY**

In the Matter of )  
 )  
REBECCA SEAMAN, R.Ph. )  
Kansas License No. 1-10628 )  
\_\_\_\_\_ )

Case No. 09-33

**STIPULATION AND FINAL AGENCY ORDER**

IT IS HEREBY STIPULATED, UNDERSTOOD AND AGREED by and between the Kansas State Board of Pharmacy (the "Board") and Rebecca Seaman, R.Ph. ("Respondent") as follows:

1. The Board is represented herein by its attorney, Kevin M. Fowler of Frieden & Forbes, 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 license to practice pharmacy. In accordance with K.S.A. 65-1627a, the Board and the person holding a Kansas license to practice pharmacy may enter into a stipulation which shall be binding upon the Board and such person entering into the stipulation, and the Board may enter its enforcement order

based upon such stipulation without the necessity of filing any formal charges or holding hearings in the proceedings.

3. Respondent is presently entitled to engage in the practice of pharmacy in the State of Kansas by reason of the Board having issued her Kansas license number 1-10628. At all times relevant hereto, Respondent has held a current license to engage in the practice of pharmacy in the State of Kansas.

4. The Board has received certain information, has investigated and has determined that there are reasonable grounds to believe that the Respondent's Kansas license to practice pharmacy may be revoked, suspended, placed in a probationary status or denied renewal pursuant to K.S.A. 65-1627(a)(12) based on disciplinary action lawfully taken by the proper licensing authority against the Respondent's Missouri license to practice pharmacy as follows:

Effective April 17, 2009, the State Board of Pharmacy of the State of Missouri ("Missouri Pharmacy Board") placed the Respondent's Missouri license to practice pharmacy in probationary status for a period of two (2) years, and subject to certain terms and conditions, pursuant to a Joint Agreed Upon Disciplinary Order entered as part of the written "Settlement Agreement Between State Board of Pharmacy and Rebecca Seaman" signed by Respondent on March 31, 2009 and approved by the Missouri Pharmacy Board on April 2, 2009 ("Settlement Agreement").

A genuine copy of the Settlement Agreement is annexed as Exhibit A hereto and hereby fully incorporated by reference into this Stipulation and Final Agency Order.

5. Respondent hereby stipulates, admits and waives any further proof in this or any other proceeding before or initiated by the Board that the facts set forth in Paragraph 4 above are

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*Matter of Rebecca Seaman, R.Ph.*, Kansas Pharmacy Board Case No. 09-33

true; that the Settlement Agreement identified in Paragraph 4 above and annexed as Exhibit A hereto is a true and correct record of the action taken by the Missouri Board of Pharmacy against her license to practice pharmacy in the State of Missouri and constitutes conclusive evidence thereof; that the Missouri Board of Pharmacy is the proper licensing authority for pharmacists in the State of Missouri; and that Respondent's Kansas license to practice pharmacy may be revoked, suspended, placed in a probationary status or denied renewal under the provisions of K.S.A. 65-1627(a)(12) based on the action of the Missouri Board of Pharmacy placing Respondent's Missouri license to practice pharmacy in probationary status.

The Board finds and concludes that Respondent's Missouri license to practice pharmacy has been lawfully placed in probationary status by the Missouri Board of Pharmacy, which is the proper licensing authority in and for the State of Missouri, and that such disciplinary action by the Missouri Board of Pharmacy, and the basis therefor, warrants the imposition of appropriate disciplinary action against Respondent's Kansas license to practice pharmacy under the provisions of K.S.A. 65-1627(a)(12).

6. The Board finds and Respondent stipulate and agree that the following disposition is lawful, just and appropriate under the circumstances:

A. PROBATION. Pursuant to K.S.A. 65-1627(a), Respondent's pharmacist license shall be placed on probation for a period of ~~two (2) years~~ from the effective date of this Stipulation and Final Agency Order <sup>Through April 2, 2011. KM</sup>

B. TERMS AND CONDITIONS. During the period of probation, Respondent will be entitled to practice the profession of pharmacy pursuant to Chapter 65, Article 16 of the Kansas Statutes Annotated provided she adheres to the following terms and conditions of probation:

(i) Respondent shall keep the Board apprised of her 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, she must provide the Board with all scheduled places of employment in writing prior to any scheduled work time.

(ii) If, at any time after the effective date of this Stipulation and Final Agency Order and before expiration of the period of probation, Respondent ceases to keep her Kansas license current or fails to keep the Board advised of her 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 ~~two (2) years~~<sup>1/3</sup> of probation prescribed herein.

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

(iv) Respondent shall comply with all provisions of the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.*, 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.

(v) Respondent shall make herself available for personal interviews to be conducted by any member of the Board or the staff of the Kansas State Board of Pharmacy. 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 she may be reached at the time of such interview.

(vi) Respondent's failure to comply with any provision set forth in this Stipulation and Final Agency Order constitutes a violation of the terms or conditions of probation.

(vii) Respondent shall provide all current and future pharmacy and drug distributor employers and/or pharmacists-in-charge a copy of this Stipulation and Final Agency 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 Final Agency Order prior to or at the time of any scheduled work assignments.

(viii) Respondent shall not serve as a preceptor for interns or pharmacy students.

(ix) Respondent shall not serve as a pharmacist-in-charge or in a supervisory capacity in the State of Kansas without prior written approval from the Board.

7. Upon successful completion and expiration of the period of probation specified above, Respondent's license as a pharmacist in Kansas shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Board determines that Respondent has violated any term or condition of this Stipulation and Final Agency Order, the Board may, in its discretion, initiate and take such additional disciplinary action against Respondent or Respondent's license as the Board deems necessary or appropriate to protect the public health, safety or welfare. If the Board determines that Respondent has violated a term or condition of this Stipulation and Final Agency Order and such violation would be independently actionable under the Kansas Pharmacy Act, the Board may elect to pursue any lawful remedies or procedures available under Kansas law and the Board shall not be bound by this Stipulation and Final Agency Order in its determination of appropriate legal actions concerning any such violation.

8. Respondent, together with her heirs and assigns, and her attorneys, do hereby waive and release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former board members, employees, agents, and attorneys, of, or from, any liability, claim, demand, action, causes of action, fees, costs and expenses, 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, 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 Stipulation and Final Agency Order. The parties expressly acknowledge and agree that this paragraph is severable from the remaining portions of this Settlement Agreement in that it survives in perpetuity even in the event that any court of law determines, declares or

otherwise deems this Stipulation and Final Agency Order or any portion hereof void or unenforceable.

9. Respondent agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and its attorney 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 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 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 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. Except as provided in Paragraph 9 above, the stipulations and agreements contained herein shall not become effective or binding until and unless the Board approves this Stipulation and Final Agency Order by entering the Final Order set forth below. Respondent acknowledges that the approval of the Board's attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Final Agency Order or the Final Order provided for herein.

11. 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 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 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. Respondent acknowledges that she 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.

D. To take advantage of all applicable provisions of the Kansas Administrative Procedures Act and the Kansas 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 limiting the disciplinary action taken against her to those provided for herein. 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.

14. Respondent acknowledges that she enters into this Stipulation and Final Agency Order freely and voluntarily after consultation or the opportunity for consultation with counsel of her choosing. Respondent further acknowledges that she has read this Stipulation and Final Agency order in its entirety, that she understands its legal consequences and that she agrees that



none of its terms are unlawful, unconscionable, fraudulent, oppressive, arbitrary, capricious or unreasonable.

15. 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.

16. 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.

17. Upon Respondent's execution of this Stipulation and Final Agency Order and the Board's entry of the Final Order set forth below, all stipulations, understandings and agreements expressed herein shall become immediately effective and binding upon each of the parties, and the Board may enter its enforcement order based upon such stipulations, understandings and agreements without the necessity of filing any formal charges or holding hearings in these proceedings. The stipulations and agreements set forth in Paragraph 9 above shall become fully binding and effective immediately upon Respondent's execution of this Stipulation and Final Agency Order.

18. Respondent acknowledges that she has been advised by the Board that she 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 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. Respondent hereby waives those rights.

19. Following entry of the Final Order set forth below, this Stipulation and Final Agency Order shall be an open, public record in the custody of the Board.

**AGREED TO AND ACCEPTED BY:**

Rebecca Seaman  
Rebecca Seaman, R.Ph.  
Respondent

9/2/09  
Date

**APPROVED BY:**

\_\_\_\_\_  
Signature of Respondent's Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Respondent's Counsel

\_\_\_\_\_  
Address of Respondent's Counsel



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*Counsel for Kansas State Board  
of Pharmacy*

09/28/2009  
Date

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\_\_\_\_\_ )

**FINAL ORDER**

Upon motion duly made, seconded and passed, the Kansas State Board of Pharmacy (the "Board") approves and accepts the above and foregoing Stipulation and Final Agency Order and hereby fully incorporates the provisions thereof as the Final Order of the Board.

**IT IS SO ORDERED.**

**ENTERED AND EFFECTIVE** this 1<sup>st</sup> day of December, 2009.

KANSAS STATE BOARD OF PHARMACY

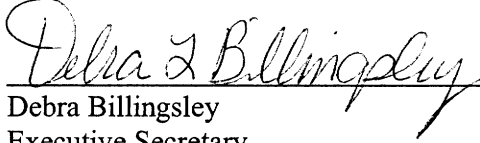
By: Karen Braman  
Karen Braman, R.Ph., M.S.  
Acting President

**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 4 day of December, 2009, properly addressed to:

Rebecca Seaman, R.Ph.  
1816 SW Pinecreek Court  
Blue Springs, MO 64015

Kevin M. Fowler  
FRIEDEN & FORBES  
555 South Kansas Avenue, Suite 303  
Topeka, KS 66603

  
\_\_\_\_\_  
Debra Billingsley  
Executive Secretary  
Kansas State Board of Pharmacy