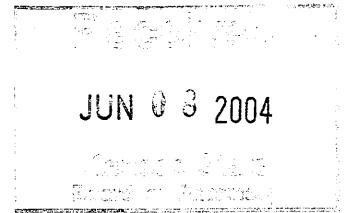


Marty M. Snyder, S.Ct. #11317
Office of Attorney General Phill Kline
120 SW 10th St., 2nd Floor
Topeka, KS 66612
(785) 296-2215



BEFORE THE KANSAS BOARD OF PHARMACY

IN THE MATTER)
)
OF)
)
RONALD A. TERRY, D.Ph)
License No. 1-09055)
Respondent.)
_____)

Case No. 04-17

CONSENT AGREEMENT AND ORDER

The Kansas State Board of Pharmacy and Ronald A. Terry, hereby enter into the following Consent Agreement this 8th day of June, ~~2004~~ 2004.

WITNESSETH:

WHEREAS, Ronald A. Terry, (hereinafter referred to as "Licensee") is properly licensed as a pharmacist pursuant to the Kansas Pharmacy Act, K.S.A. 65-1625 *et seq.*, having been issued license number 09055 which expires June 30, 2005; and

WHEREAS, the Kansas Board of Pharmacy (hereinafter referred to as "Board") is a state agency empowered to enforce the Kansas Pharmacy Act, K.S.A. 65-1625 *et seq.*, including the use of disciplinary actions to suspend, revoke or otherwise limit the licenses of Kansas pharmacists who violate the Act; and

WHEREAS, the parties stipulate that the Licensee is the owner of Family Discount Pharmacy located in Ponca City, Oklahoma; and

WHEREAS, Respondent processed prescriptions for drugs that were not listed on the pharmacy's annual inventory nor were the drugs ordered from a wholesaler; and

WHEREAS, Oklahoma Compliance Officers conducted an audit of 35 brand name drugs and their respective generics for the period of May 31, 2002 through December 26, 2002. The audit revealed a symmetry between the overage of brand name drugs and the shortage of their corresponding generics, and;

WHEREAS, the Oklahoma Compliance Officers found numerous instances where the Respondent billed either Medicaid, a co-pay or third party payor for brand names when generics were dispensed; and

WHEREAS, on August 14, 2003 the Respondent entered into AGREED FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER in Case No. 678 whereby Respondent admitted to violating Oklahoma pharmacy law; and

WHEREAS, the above facts are violations of K.S.A. 65-1627(a)(12) in that the board may revoke, suspend, place in a probationary status or deny a renewal of any license of any pharmacist upon a finding that the licensee has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state,

territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

WHEREAS, Licensee and Board mutually desire to enter into this Consent Agreement and Order in lieu of formal adjudicative proceedings pursuant to the Kansas Administrative Procedure Act to resolve the report of alleged violations.

WHEREFORE, for good and valuable consideration, the Licensee and the Board agree as follows:

1. Licensee shall be placed on probation until August 14, 2008; and
2. Licensee shall be in compliance with the Oklahoma Order whereby Respondent was ordered to attend an approved one-day law seminar in the years 2003, 2004, and 2005 over and above the fifteen (15) hours of continuing education required for each of those years. Respondent was further ordered to attend live continuing education for all of his required continued education for 2004 and 2005.
3. Licensee shall be in compliance with Oklahoma Order whereby he was ordered not to own another pharmacy in Oklahoma should he sell his interest in Family Discount Pharmacy;
4. Licensee shall immediately notify the Kansas Board if he fails to comply with any of the terms of the Oklahoma Order or if any further disciplinary action is taken against him in Oklahoma or any other jurisdiction.
5. Licensee agrees this Consent Agreement and Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter it and the Final Order provided for herein. The Licensee further agrees that the Kansas

Pharmacy Act, K.S.A. 65-1625 *et seq.* is constitutional on its face and as applied in this case.

6. This Consent Agreement and Order constitutes the entire agreement of the parties and may only be modified by a subsequent writing signed by the parties. The Agreement shall be interpreted in accordance with the laws of the State of Kansas.

7. The Licensee 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 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 Procedure Act and the Act for Judicial Review and Civil Enforcement of Agency Actions.

The Licensee 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 that set forth herein. The licensee further waives the right to seek reconsideration or appeal or otherwise contest this Consent Agreement and Order and Final Order provided for herein.

8. The Licensee acknowledges that he enters this Consent

Agreement and Order freely and voluntarily after having the opportunity to consult with counsel of his choosing. The Licensee further acknowledges that he has read this Consent Agreement and Order in its entirety, that he understands its legal consequences and that he agrees that none of its terms are unconscionable, arbitrary, or capricious.

9. Licensee acknowledges and agrees that any violation of this Consent Agreement and 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 Consent Agreement and Order shall not affect the obligation of Licensee to comply with all terms and conditions of this Consent Agreement and Order.

10. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

- A. Adverse Action Classification: "Probation"
- B. Basis for Action: " Unprofessional Conduct"

11. This Consent Agreement and Order constitutes the entire and final Agreement of the parties. In the event any provision of this Consent Agreement and Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Consent Agreement and Order shall be given full force and effect.

12. Upon execution by all parties, this Consent Agreement and Order shall be a public record in the custody of the Board.

13. This Consent Agreement and Order shall become effective on the

Mr Snyder,

5/18/04

This did not happen but I could not prove it then + I cannot prove it now - I signed the agreement OKla comprised by recommendation of my lawyer so I would be able to continue to practice. There were 3 Rxs found to be mislabeled + one of them was dated 1991. All 3 Rxs had "generic used" written on the hard copy! They were not intentional.

I had a long time employee apprehended stealing CDs Drugs from the pharmacy just before the hearing. At the time she was caught she had in excess of \$1000⁰⁰ worth of narcotics in her possession. She admitted to the arresting detective + later in court to have been stealing for some time and manipulating bottles to cover up the theft.

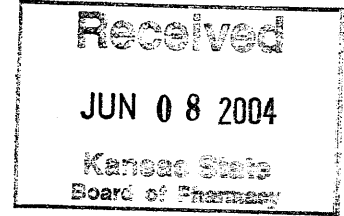
She signed a restitution order of \$6000⁰⁰

But it had to be a much larger Amt.

The OKla Compliance officer knew of the theft weeks before the hearing but said I should have been aware something was wrong - I am signing a consent form + returning or per instruction

Thank you
Randy RPH

BEFORE THE STATE BOARD OF PHARMACY
900 SW Jackson, Ste. 560
Topeka, Kansas 66612-1231
(785) 296-4056



IN THE MATTER OF)
)
RONALD A. TERRY, D.Ph.)
KS License# 1-08708)
_____)

Case No.04-17

FINAL ORDER

Upon motion duly made, seconded and passed, the Kansas Board of Pharmacy (the "Board") approves and accepts the within CONSENT AGREEMENT AND ORDER and incorporates the provisions thereof as the Final Order of the Board.

ENTERED AND EFFECTIVE THIS 8th day of June 2004.

KANSAS BOARD OF PHARMACY

By: _____

Jeffrey Thompson
Jeffrey Thompson, R.Ph.
President

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing CONSENT AGREEMENT AND ORDER and FINAL ORDER was mailed on the 2 day of ~~June~~, *July* 2004 and sent by U.S. mail, postage prepaid addressed to:

Ronald A. Terry, D.Ph.
3210 Whippoorwill
Ponca City, OK 74604

And a copy sent by building mail to:

Marty M. Snyder
Office of the Attorney General
120 SW 10th, 2nd Floor
Topeka, KS 66612-1597

Debra L. Billingsley
Executive Director

1 0