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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

October 20, 2022

Thao Tran
11326 Sandstone Canyon Dr
Humble TX 77396

RE: Case No. 22-047

Dear Thao Tran:

Enclosed you will find a copy of the final Stipulation and Consent Order approved by the Kansas Board of Pharmacy in the above-referenced matter. Please read the order in its entirety. In addition, a civil fine has been assessed totaling \$2,500.00. Please make all checks payable to the Kansas Board of Pharmacy and include your case number in the memo.

If you have any questions, feel free to contact the Board at Pharmacy.Compliance@ks.gov.

Sincerely,

Kansas Board of Pharmacy

Enclosure

cc:
George F Indest, III, Attorney for Respondent
The Health Law Firm
1101 Douglas Ave, Suite 1000
Altarmonte Springs, FL 32714

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
) Case No. 22-047
THAO MAI THAI TRAN, R.PH.)
Kansas License No. 1-110737)

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Board of Pharmacy (the "Board") and Thao Mai Thai Tran, R.Ph. ("Respondent") as follows:

1. The Board is represented herein by its attorney, Brenda L. Head of Frieden & Forbes, 1414 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by her attorney, George F. Indest, III, J.D., M.P.A., LL.M., The Health Law Firm, P.A., 1101 Douglas Ave., Suite 1000, Altamonte Springs, Florida 32714.

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 her Kansas license number 1-110737 ("Kansas License"). At all times relevant hereto, the Respondent has held a current license to engage in the practice of pharmacy in the State of Kansas.

4. The Board's Investigation Member and Executive Secretary have received certain information, investigated and determined that there are reasonable grounds to believe that Respondent has committed one or more acts in violation of K.S.A. 65-1627(a) which would justify the revocation or imposition of other disciplinary action against her Kansas License under

the provisions of K.S.A. 65-1627(a) and the assessment of an appropriate fine against Respondent under the provisions of K.S.A. 65-1658.

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. On September 1, 2021, Patient G.E. went to Walgreens Pharmacy #7817 requesting an influenza vaccination and Pharmacy Technician Rebecca Johnson processed the request and payment for the influenza vaccination.

B. On September 1, 2021, Respondent failed to verify with Patient G.E. the vaccination to be administered.

C. On September 1, 2021, Respondent erroneously prepared and administered a COVID-19 vaccination to Patient G.E., instead of the influenza vaccination requested.

D. On September 1, 2021, Respondent instructed Patient G.E. to return for a booster shot and Respondent realized she had administered the incorrect vaccine.

E. K.A.R. 68-2-20(b)(6) requires a pharmacist ensure the proper selection of prescription medications.

F. On September 1, 2021, Respondent thereafter administered the influenza vaccination for Patient G.E.

G. On September 22, 2021, Respondent provided her Employer with a written statement which was provided to the Board claiming the September 1, 2021 vaccination for Patient G.E. had been drawn up by the Pharmacy Technician and laid on the counter with the patient consent form for Respondent's administration.

H. Pharmacist-in-Charge of Walgreens Pharmacy #7817, Matthew Davis, reviewed the September 1, 2021 video footage to determine who drew the COVID-19 vaccination and confirmed Respondent had drawn the COVID-19 vaccination she administered to Patient G.E.

I. Making a false or misleading statement regarding Respondent's professional practice constitutes unprofessional conduct as defined by K.S.A. 65-1626(vvv)(8).

J. At the time, Walgreens Immunization Policy Section 4.2(2) required Authorized Pharmacy Team Members to adhere to their state specific requirements and Walgreens Policy to administer immunizations.

K. K.S.A. 65-1626(www) requires both physicians and pharmacists to agree and sign immunization protocols. The immunization protocol for Walgreens Pharmacy #7817 listed Respondent as an agreed pharmacist, but Respondent did not sign the protocol.

L. K.S.A. 65-1635a(b) requires pharmacists to promptly report a vaccine administration to the patient's primary care provider or state immunization registry (WebIZ). Respondent did not report the vaccines administered to Patient G.E.

M. K.A.R. 68-7-12b(c) requires a pharmacist to prepare an Incident Report as soon as possible after discovery of an incident. Respondent failed to complete an Incident Report on the vaccination error with Patient G.E.

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 appropriate disciplinary action against Respondent's Kansas License pursuant to K.S.A. 65-1627(a)(8) and (11) and an administrative fine pursuant to K.S.A. 65-1658.

6. The Respondent agrees and consents and the Board finds concludes and orders that the following disposition is just and appropriate under the circumstances:

A. ADMINISTRATIVE FINE. Within 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 Twenty-Five Hundred Dollars (\$2,500.00).

B. EDUCATION. Respondent hereby agrees and consents that within sixty (60) days of the entry of this Stipulation and Consent Order, she shall enroll and successfully pass The Oregon State University CE course "Patient Safety and Medication Error Prevention for Pharmacy." Respondent must submit proof of successful completion of the course. The continuing education hours contemplated herein shall not count toward continuing education required for biennial licensure renewal.

C. PROBATION. Pursuant to K.S.A. 65-1627(a), Respondent's license shall be placed on probation for a period of twenty-four (24) months from the effective date of this Stipulation and Consent Order. 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) All future Incident Reports shall be provided to the Board within four (4) weeks of discovery of an incident and consistent with all of the requirements of K.A.R. 68-7-12b(e).

(ii) 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.

(iii) 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 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 twenty-four (24) months of probation prescribed herein.

(iv) Respondent agrees and the Board orders that Respondent shall not serve as a Pharmacist-in-Charge or preceptor during her probation.

(v) 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, she 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.

(vi) 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.

(vii) 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 Consent 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 Consent 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 Consent Order in its determination of appropriate legal actions concerning any such violation.

D. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order she must, and the Board further orders the Respondent to:

1. Comply fully with this Stipulation and Consent Order;
2. Comply fully with the Kansas Pharmacy Act, the Board's rules and regulations and all state and federal laws relating to Kansas pharmacies;

7. 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 her 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 sentences 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.

8. 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, Executive Secretary or its attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Consent Order.

9. 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.

10. 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.

11. The 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 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 and in consideration of the Board's limiting the disciplinary action taken against her to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order and the Consent Order provided for herein.

12. The Respondent acknowledges that she enters into this Stipulation and Consent Order freely and voluntarily after consultation with or an opportunity to consult with counsel of her choosing. The Respondent further acknowledges that she has read this Stipulation and Consent Order in its entirety, that she understands its legal consequences and that she agrees that none of its terms are unconscionable, arbitrary or capricious.

13. 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 her. 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.

14. 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.

15. 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.

16. 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.

17. The 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 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, JD, MBA, its Executive Secretary at 800 SW Jackson St., Suite 1414, Topeka, KS 66612. The Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 20th day of October, 2022.

KANSAS BOARD OF PHARMACY

By: 

DR. JONATHAN BRUNSWIG
President

AGREED AND APPROVED BY:



Thao Mai Thai Tran, R.Ph.

09/14/2022

Date



Dr. Terica Gatewood
Investigation Member

10/20/2022

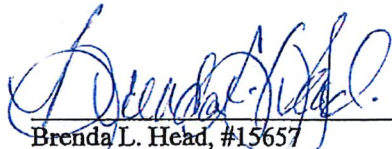
Date



George F. Indest, III, J.D., M.P.A., LL.M.
The Health Law Firm, P.A.
1101 Douglas Ave., Suite 1000
Altamonte Springs, FL 32714
Respondent's Attorney's Name & Address

9/19/2022

Date



Brenda L. Head, #15657
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
(785) 354-1100
bhead@fflawllp.com
Counsel for the Kansas Board of Pharmacy

9-20-2022

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 20th day of October, 2022 addressed to:

Brenda L. Head
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604

Thao Mai Thai Tran, R.Ph.
11326 Sandstone Canyon Dr.
Humble, TX 77396

George F. Indest, III
The Health Law Firm, P.A.
1101 Douglas Ave., Suite 1000
Altamonte Springs, FL 32714



Representative of the
KANSAS BOARD OF PHARMACY