

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

Filed

JUN 09 2010

KANSAS STATE
Board of Pharmacy

In the Matter of)
)
Kimberly K. Turner, R.Ph.)
Kansas License No. 1-11436)
_____)

Case No. 09-93

SETTLEMENT AGREEMENT AND FINAL ORDER

The above captioned matter comes before the Kansas State Board of Pharmacy ("Board"), by request of Kimberly K. Turner, R.Ph. for the purpose of resolving the above-captioned proceeding. Licensee appears in person and without counsel. The Board appears by William C. Rein, Disciplinary Counsel. There are no other appearances.

This Settlement Agreement and Final Order ("Final Order") is based upon the following findings of fact and stipulations:

FINDINGS OF FACT BY THE BOARD

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.*). The Licensee is Kimberly K. Turner, R.Ph, License No. 1-11436, ("Licensee") who currently resides at 765 Southridge, Baxter Springs, Kansas 66713. 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, K.S.A. 77-501, *et seq.*

Such proceedings could result in suspension, revocation, and other disciplinary actions affecting Licensee's ability to work as a Licensed Pharmacist in the State of Kansas.

3. 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

4. On October 22, 2009, Licensee and the Board entered into a Consent Agreement on file herein which resulted in a stipulation that the Licensee would immediately cease practicing pharmacy in the State of Kansas and would not resume the practice of pharmacy without subsequent written permission from the Board. This stipulation was based upon probable cause to believe that the Licensee was in need of treatment for substance abuse due to the diversion of Oxycodone from her employer while working as a pharmacist. The Licensee admitted that she was in need of treatment for substance abuse.

STIPULATIONS

5. Licensee affirmatively states that the Board had probable cause to initiate this proceeding. Licensee, 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, 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.

6. Licensee affirmatively states that she has not practiced pharmacy since the October 22, 2009 Consent Decree was signed by both parties and will not practice pharmacy unless and until the Board's Final Order is issued.

7. Licensee affirmatively states that on October 13, 2009, she entered treatment for detoxification and substance abuse at a facility in the State of Florida. Since her discharge from the treatment facility, Licensee has not taken medications requiring a prescription from a physician without first obtaining a prescription. Licensee also participated in outpatient treatment established for her by the Florida treatment facility. Follow-up treatment included strict medication compliance with her physician's orders, monthly clinic check-ups, and medication management sessions. These requirements were set forth in correspondence dated October 29, 2009 from the Florida treatment facility's medical director to the director of the Kansas Committee on Impaired Pharmacy Practice ("CIPP") sponsored by the Kansas Pharmacists Association.

8. In a letter dated October 23, 2009 to the Board's Director, Licensee confirmed that she was in private counseling at a program in the State of Missouri where she will complete the 12 step program and submit to monitoring.

9. Licensee is participating in a program operated by CIPP. Licensee will continue to follow the recommendations, requirements, and monitoring of the CIPP program throughout the period of probation as set forth later in this Final Order.

10. Both parties desire to settle any and all claims and issues in this matter without more formal procedures under the Kansas Administrative Procedure Act.

11. Licensee acknowledges that she has had the opportunity to have this Agreement reviewed by counsel and is entering into the same of her own free will and volition. Licensee waives her 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.

12. 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 Final Order is to resolve the issues which gave rise to this proceeding only.

13. Execution of this Agreement does not constitute any admission of liability by Licensee. However, should Licensee violate any terms, conditions, or orders of the Board set forth herein, the Licensee's prior admission that she diverted Oxycodone from a previous employer may be used against her in any disciplinary proceeding initiated by the Board.

14. 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 her License to practice pharmacy in the State of Kansas.

15. 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.

16. 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.

17. 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

18. 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 the CIPP for continuing evaluation, treatment, and monitoring as established by the CIPP in its sole discretion and judgment. The Licensee will fully participate in all requirements of the 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, she shall, at her cost, sign a contract with the CIPP as specified in the previous paragraph within one week following the date of this Final Order. The Licensee shall notify the Board, in writing,

that she has signed the contract. The Licensee shall also notify the Board, in writing, within one week of her failure to satisfactorily fulfill any condition or requirement established for her treatment and monitoring by the CIPP. In the event that the Licensee fails to comply with any requirement of the CIPP, the Board reserves the right to proceed with a formal disciplinary action or to approve any new conditions established by the CIPP.

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

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

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

f. Upon filing a letter or other proof that the Licensee has entered into a five year agreement with the CIPP, 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.

g. The 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.

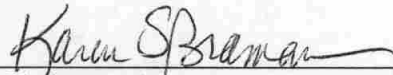
h. The Licensee shall at all times comply with the Kansas Pharmacy Act and other statutes and regulations, whether state or federal, pertaining to the practice of pharmacy.

FINAL ORDER

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

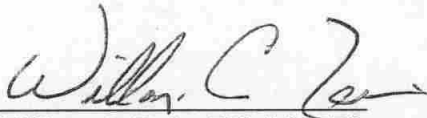
IT IS SO ORDERED.

Dated this 9th day of June, 2010.



Chairperson
Kansas State Board of Pharmacy
Landon State Office Building
900 SW Jackson Street- Suite 560
Topeka, KS 66612-1230
(785) 296-4056 Main Office
(785) 296-8420 FAX

SEEN AND AGREED TO BY:



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

Date: 5/7/2010



Kimberly K. Turner, R.Ph.
765 Southridge
Baxter Springs, Kansas 66713

Date: 5/11/10

CERTIFICATE OF SERVICE

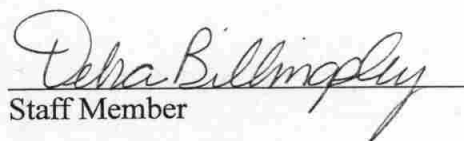
I hereby certify that on this 9 day of June, 2010, I deposited a true and correct copy of the above and forgoing "Settlement Agreement and Final Order" in the United States Mail, postage prepaid, and addressed to:

Kimberly K. Turner, R.Ph.
765 Southridge
Baxter Springs, Kansas 66713

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

Direct Mailing Address:

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Staff Member