

BEFORE THE
KANSAS STATE BOARD OF PHARMACY
Landon State Office Building, Room 513
Topeka, Kansas 66612
785/296-4056

In The Matter	}	
	}	
of	}	Case No.
	}	
DILLONS PHARMACY #74,	}	
Registered Pharmacy, #2-07532,	}	
Respondent	}	
_____	}	

CONSENT AGREEMENT AND ORDER

Now on this 26th day of August, 1999, the above-captioned matter comes before the Kansas State Board of Pharmacy (Board) by agreement of Dillons Pharmacy #74, (Registrant) and the Kansas State Board of Pharmacy for the purpose of settling the above-captioned case.

Registrant hereby acknowledges the following:

1. Dillons Pharmacy #74 is a registered pharmacy within the meaning of the Kansas Pharmacy Act, K.S.A. 65-1625 et seq. and amendments thereto.
2. On or about February 22, 1999, the registrant's pharmacist in charge, Donald Atwill, R.Ph., terminated his employment with Dillons #74. All pharmacies in Kansas have a 30 day grace period to retain the services of another pharmacist in charge to be in compliance with K.S.A. 65-1637 and K.A.R. 68-1-2a(b). On March 24, 1999, at the expiration of the 30 day grace period, Dillons Pharmacy #74 had failed to designate a pharmacist in charge. On April 12, 1999 Renee Atwill became the pharmacist in charge for Dillons Pharmacy #74. To wit, the respondent was knowingly being operated without a pharmacist registered as a pharmacist in charge for a period of 48 days in violation of K.S.A. 65-1637 and K.A.R. 68-1-2a(b).
3. The Board's investigative committee conducted an investigation concerning Registrant's alleged violation of statutes and regulations.
4. During the investigation, Registrant was informed of the reported information, and was

given the opportunity to respond to the allegations, and did respond to the allegations.

5. As a result of the investigation, the Board makes the following factual determinations:

(a) On or about February 22, 1999, the registrant's pharmacist in charge, Donald Atwill, R.Ph., terminated his employment with the registrant.

(b) All pharmacies in Kansas have a 30 day grace period to retain the services of another pharmacist in charge to be in compliance with K.S.A. 65-1637 and K.A.R. 68-1-2a(b).

(c) On March 24, 1999, at the expiration of the 30 day grace period, Dillons Pharmacy #74 had failed to designate a pharmacist in charge.

(d) On April 12, 1999 Renee Atwill became the pharmacist in charge for Dillons Pharmacy #74.

6. As a result of the investigation, the Board's investigative committee determined that reasonable grounds exist to believe the Registrant has violated K.S.A. 65-1637 and K.A.R. 68-1-2a(b).

7. The respondent admits the fact that there was not a pharmacist in charge for Dillons Pharmacy #74, Inc. for the time period alleged.

HOWEVER, Registrant and the Board mutually desire to enter into the Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations.

WHEREFORE Registrant waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas administrative procedure act in relation to this matter.

WHEREFORE Registrant waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas act for judicial review in relation to this matter.

WHEREFORE Registrant consents to:

(a) An administrative fine in the amount of One Thousand Three Hundred Sixty dollars and no cents (\$1,360.00).

(b) This Consent Agreement and Order constitutes the entire agreement between the Registrant and may be modified or amended only by written agreement signed by the parties.

(c) Registrant shall be responsible for all costs incurred in satisfying the terms of the Consent Agreement and Order.

(d) Notification of the Consent Agreement and Order shall be provided to another

jurisdiction's licensing board if the Registrant is also licensed, registered or certified in another jurisdiction.

(e) This Consent Agreement and Order is reportable to state and federal licensing agencies and applicable professional associations.

(f) Registrant acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personnel or professional status which would inhibit compliance with its registration.

(g) The registrant/representative of the registrant shall appear by telephone conference call before the Kansas State Board of Pharmacy on August 26, 1999 at 2:15 p.m. to respond to any questions or comments that may be posed by the board.

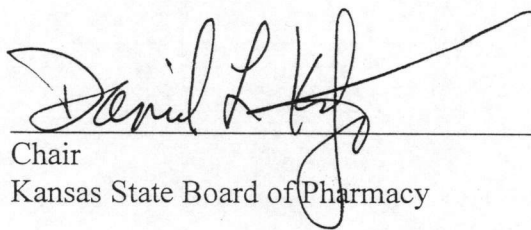
WHEREFORE Registrant consents to the submission of this Consent Agreement and Order to the Kansas State Board of Pharmacy, and understands that upon approval of the Board, this Consent Agreement and Order becomes a final order of the Board.

WHEREFORE Registrant agrees that all information in the possession of the Board or its attorney regarding the complaint which led to this disciplinary action, the investigation of the complaint 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 Consent Agreement and Order and the Final Order provided for herein, with or without the presence of the registrant or the registrant's attorney. In the event that this Consent Agreement and Order provided for herein are not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Consent Agreement and 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.


WHEREFORE the Board agrees that so long as registrant complies with the above conditions that the Board will not initiate further disciplinary action against Registrant in relation to violation of K.S.A. 65-1625 et seq regarding this matter.

WHEREFORE the provisions above are consented to and are hereby made the final order of the Kansas State Board of Pharmacy which become effective on the date indicated in the below Certificate of Service.

IT IS SO ORDERED.


Chair
Kansas State Board of Pharmacy

APPROVED AND CONSENTED TO:


MIKE SHORT
Dillons Pharmacy, #74

8-26-99
(Date)

SUBMITTED AND APPROVED BY:


WM. SCOTT HESSE
Assistant Attorney General
2d Floor, Judicial Center
Topeka, Kansas 66612
785/296-2215

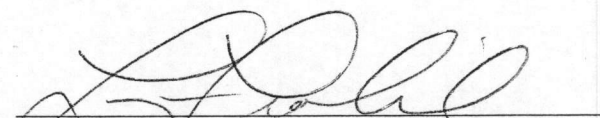
8/26/99
(Date)

Certificate of Service

This is to certify that on the 26th day of August, 1999 a true and correct copy of the above and foregoing Consent Agreement and Order was hand delivered to:

Wm. Scott Hesse
Assistant Attorney General
2d Floor, Judicial Center
Topeka, Kansas 66614

Mike Short
Dillons Pharmacy #74


For the Kansas State Board of Pharmacy