

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
Hallandale Pharmacy)
Kansas Registration No. 22-102800)

Case No. 17-185

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and Hallandale Pharmacy located at 1109 E Hallandale Beach Blvd, Hallandale, FL 33009 ("Respondent") as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden & Forbes, LLP, 1414 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by its attorney, Paul P. Drake of Grossman, Furlow & Bayo, 2022-2 Raymond Diehl Road, Tallahassee, Florida 32308.

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 registration to operate a pharmacy.

3. The Respondent was previously entitled to operate a non-resident pharmacy in the State of Kansas by reason of the Board having issued it Kansas registration number 22-102800 ("Kansas Registration"). At all times relevant hereto, the Respondent held a registration to operate a non-resident pharmacy at 1109 E Hallandale Beach Blvd, Hallandale, FL 33009 (the "Facility").

4. The Board's Investigation Member has received certain information, investigated, and determined that there are reasonable grounds to believe that Respondent has operated in a manner that violates the Act.

5. Respondent hereby waives any further proof in this or any other proceeding before or initiated by the Board with respect to this matter, and upon motion duly made, seconded and passed, the Board finds the following:

- A. On or about June 25, 2018, the Board received Respondent's Non-Resident Pharmacy renewal application.
- B. On July 17, 2018, Respondent's facility moved; however, Respondent did not notify the Board until November 28, 2018. Additionally, Respondent noted on the application that the effective date of the change was October 8, 2018, but Respondent's certification papers listed the facility as "operational" in August. The State of Florida visited Respondent's facility on August 6, 2018, making September 5, 2018 the last date by which Respondent could provide the Board with notification.
- C. Respondent received a disciplinary order from the Oklahoma Board of Pharmacy dated November 2, 2017; however, Respondent failed to disclose this discipline on its renewal application or in its subsequent address change application.
- D. National Association of Boards of Pharmacy (NABP) VPP and State of Florida inspections indicated the following issues were present: beyond use dates were out of the acceptable range; cleaning was not completed per policy and procedure as the policy and procedure was lacking according to NABP and the State of Florida; normal Saline was stored in a large warehouse area with no temperature controls or monitoring; improper garbing by technician; training in compounding for personnel was not documented; surface sampling was not completed in ISO 8 area; and compounding records were incomplete.

E. Based on information received by the Board, the Board concluded Respondent engaged in conduct which would be grounds for denying Respondent its renewal registration and issued a Summary Order of Denial on December 27, 2018, which became final and effective on January 11, 2019.

F. On January 18, 2019, Respondent requested reconsideration of the Summary Order of Denial and provided additional information concerning the facility.

6. Respondent's conduct as described above was cause for the Board to deny Respondent's Renewal Application for registration as a non-resident pharmacy pursuant to K.S.A. 65-1627(e)(4), which states that the Board may revoke, suspend, place in a probationary status or deny a renewal of the registration of a pharmacy upon a finding that the registrant has had a registration revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for registration denied, by the proper registering authority of another state, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

7. Respondent's conduct as described above is also cause for the Board to deny Respondent's Renewal Application for registration as a non-resident pharmacy pursuant to K.S.A. 65-1627(e)(1) for violations of the rules and regulations of the Board, which require applicants to disclose all disciplinary history on renewal applications and for violations of the rules and regulations of the Board related to Respondent's incompetency, misconduct, gross negligence, fraud and/or misrepresentation in the performance of Respondent's functions or duties as a licensed pharmacy.

8. Upon motion duly made, seconded and passed, the Board finds and concludes that the events described in paragraph 5 above, constitute the operation of a pharmacy in a manner

that violates the Act and the Regulations of the Board and is therefore grounds for disciplinary action against the Respondent's Kansas Registration pursuant to K.S.A. 65-1627 (e)(1) and K.S.A. 65-1627(e)(4).

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

A. RENEWAL GRANTED. Respondent's 2018 Renewal Application shall be approved by the Board.

C. FINE. Respondent shall pay a total fine to the Board within 30 days of the effective date of this Stipulation and Consent Order in the amount of \$7,180.00 for failing to notify the Board of the change in facility location/address (\$1,000 + \$20/day x 84 days), failure to disclose the Oklahoma discipline (\$1,000), lack of adequate pharmacy personnel training documentation (\$1,000), and incomplete policies and procedures (\$2,500).

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

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;

11. 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

provided for herein, with or without the presence of the Respondent or its attorney. In the event that this Stipulation and Consent Order provided for herein 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 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.

12. Respondent agrees that failure to meet all conditions of this Stipulation and Consent Order can lead to additional fines and/or revocation of registration.

13. The stipulations contained herein shall not become binding until this Stipulation and Consent Order is approved by the Board and is entered by the Board. The Respondent acknowledges that the approval of the Board's Investigation Member or its attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Consent Order.

14. 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 and enter the Final Order provided for herein. 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.

15. 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.

16. The Respondent acknowledges that it has the following rights:

Matter of Hallandale Pharmacy, No. 17-185 (Kan. Bd. of Pharmacy)

STIPULATION AND CONSENT ORDER

Page 5 of 9

(a) To have formal notice of charges served upon it;

(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 including, but not limited to, the right to a hearing on any Summary Order issued prior hereto, and acknowledges that said waiver is made voluntarily and in consideration of the Board's limiting the disciplinary action taken against it to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order provided for herein.

17. The Respondent acknowledges that it enters into this Stipulation and Consent Order freely and voluntarily after consultation with counsel of its choosing. The Respondent further acknowledges that it has read this Stipulation and Consent Agency order in its entirety, that it understands its legal consequences and that it agrees that none of its terms are unconscionable, arbitrary or capricious.

18. Time is of the essence to this Stipulation and Consent Order to allow the Board to provide sufficient notice of a decision in the event Respondent chooses to not sign the agreement. As such, the deadline for Respondent to return the signed order if Respondent chooses to agree to the terms is April 26, 2019.

19. 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 it. 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.

20. 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.

21. Upon approval and entry by the Board, this Stipulation and Consent Order shall be a public record in the custody of the Board.

22. 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.

23. The Respondent acknowledges that it has been advised by the Board that it would have the right within 15 days after service of the Stipulation and Consent Order provided for herein to file a petition for reconsideration with the Board and the right within 30 days after service of the Stipulation and Consent 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 10th day of June, 2019.

KANSAS BOARD OF PHARMACY

By: 
DR. JOHN WORDEN, President

AGREED AND APPROVED BY:

HALLANDALE PHARMACY
1109 E HALLANDALE BEACH BLVD
HALLANDALE, FL 33009

By: 

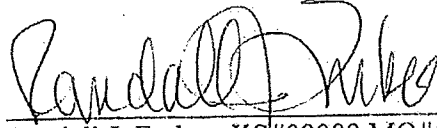
03/26/19
Date

Bill Walden, R.Ph.
Investigation Member

06/11/2019
Date

Respondent's Attorney's Name & Address

Date


Randall J. Forbes, KS#09089 MO#64335
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
(785) 354-1100

06/06/2019
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 11th day of June, 2019 addressed to:

Randall J. Forbes
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604

HALLANDALE PHARMACY
1109 E HALLANDALE BEACH BLVD
HALLANDALE, FL 33009



Representative of the
KANSAS BOARD OF PHARMACY