

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of )  
 ) Case No. 24-037  
JANET HIERL, R.PH. )  
Kansas License No. 1-10656 )

**STIPULATION AND CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and Janet Hierl, 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, \_\_\_\_\_

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 presently has a current license for the practice of pharmacy in the State of Kansas by reason of the Board having issued her Kansas license number 1-10656 ("Kansas License").

4. The Board's Investigation Member has 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. At all times relevant hereto, Respondent was employed as a Pharmacist at Hy-Vee Pharmacy 1377 (“Pharmacy”), Kansas License #2-08556, located at 3504 Clinton Parkway, Lawrence, Kansas 66047.

B. On or about December 13, 2023, Respondent’s coworker recognized at a distance the odor of alcohol on Respondent, the coworker observed Respondent appearing unsteady and not functioning well, she heard Respondent comment that she was not seeing well, and she observed another coworker express concerns regarding Respondent’s appearance. The coworker also observed a minor error committed by Respondent and reported all of these observation to the Pharmacy Store Manager.

C. On or about December 13, 2023, the Pharmacy Manager and Store Director met with Respondent and confirmed the odor of alcohol on Respondent and observed Respondent’s slow reaction to basic conversation at which time Respondent was removed from her shift and Respondent was provided with Pharmacy Employee Assistance Program information.

D. When confronted on or about December 13, 2023, Respondent did not deny she smelled of alcohol, Respondent stated she knew she needed help and she requested FMLA leave.

E. On or about December 15, 2023, Respondent was instructed by Pharmacy management to contact KsPRN to receive an evaluation and to be cleared by DCCCA Lawrence Outpatient Services in order to return to work. Respondent was advised by the Pharmacy that if she failed to be evaluated that her employment would be terminated.

F. On or about January 2, 2024, the Pharmacy Director provided Respondent with the DCCCA Lawrence Outpatient Services contact information and gave Respondent a January 9, 2024 deadline to obtain the requested evaluation.

G. On or about January 8, 2024, Respondent informed Pharmacy management she had an appointment on January 2, 2024 at DCCCA Outpatient and another appointment was scheduled on January 9, 2024 at Bert Nash.

H. On January 8, 2024, Respondent stated to Pharmacy management that she had signed a release with DCCCA to allow the Pharmacy to speak with them about Respondent's ability to return to work, however DCCCA indicated to the Pharmacy that Respondent had not executed such a release.

I. On January 8, 2024, Pharmacy management advised Respondent she needed to sign the release and provide an assessment clearing her to return to work.

J. On January 11, 2024, due to inclement weather, Pharmacy management extended the deadline for Respondent to provide the requested documentation to January 16, 2024.

K. Respondent did not respond to Pharmacy management's communications, she did not request FMLA leave, she did not execute the DCCCA release or assessment and she did not provide an assessment from Bert Nash by the January 16, 2024 deadline.

L. On January 17, 2024, Respondent was terminated from employment at the Pharmacy.

M. On January 23, 2024, the Board received an impaired provider notification from the Pharmacy regarding Respondent's conduct and employment.

N. On January 24, 2024, the Board requested a written statement from Respondent regarding the impaired provider information received from the Pharmacy.

O. Respondent did not provide the Board with the requested written statement, but she spoke to the Board's investigator by phone on February 12, 2024 during which Respondent disclosed one week of inpatient treatment followed by voluntary admission in a 30-45 day recovery facility. Respondent also stated "I am not saying I didn't have a problem; I'm saying I didn't have a problem at work."

P. Respondent's impairment due to alcohol while on duty as a Pharmacist poses a serious health risk to the public health and safety or welfare of individuals who she serves in her employment as a Licensed Pharmacist.

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)(4) and K.S.A. 65-1627(a)(3), as defined by K.S.A. 65-1626(vvv)(7).

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. **SUSPENSION.** Respondent hereby agrees and consents to the Board's entry of an order whereby her license to practice pharmacy in the State of Kansas is suspended for a period of not less than one (1) year, which requires Respondent to maintain one (1) year of clean

*Matter of Janet Hierl, R.Ph., No. 24-037 (Kan. Bd. of Pharmacy)*

**STIPULATION AND CONSENT ORDER**

Page 4 of 11

tests for substances, as contemplated in Section B herein, before Respondent may request reinstatement from the Board. If Respondent commits an act during the suspension period that constitutes a violation of the Pharmacy Practices Act or the Board's regulations or fails to meet any condition set out in this stipulation, the period of suspension continues.

B. KsPRN REQUIREMENT.

1. The Respondent, if she has not already done so, shall immediately enter into a *Statement of Understanding* agreement with the Kansas Pharmacists Association ("KPhA") and the Committee on Impaired Pharmacy Practice Program ("CIPP") which operates the Kansas Pharmacist Recovery Network ("KsPRN") for a period of no less than five (5) years. Respondent shall fully cooperate with the recommendations and requirements of the persons managing and implementing the evaluation and treatment program recommended and requested by the KsPRN Agreement and the further requirements of the Board. Respondent shall, at all times, be in full compliance with the requirements of the KsPRN Agreement and other requirements placed upon her by KsPRN, *including, but not limited to, full and continued compliance with the requirement to cooperate with requests for random body fluid drug screens as provided in the KsPRN Agreement.*

2. The Respondent shall authorize KsPRN and any provider of evaluation or treatment programs she engages in to provide full and complete documentation and information regarding the Respondent's involvement in the programs, including her evaluations and treatment, including, but not limited to, records and medical reports.

C. PROBATION. The Respondent agrees and the Board orders that the Respondent's Kansas License will be placed on a status of probation after the reinstatement from suspension and during the period of time of her enrollment in KsPRN.

D. LICENSE RESTRICTIONS. The Respondent agrees and the Board orders that Respondent shall not ever serve as Pharmacist-in-Charge or Preceptor until or unless recommended by the CIPP and approved by the Board.

E. NOTIFICATIONS. The Respondent agrees and the Board orders that Respondent shall:

- i. Require any pharmacy or drug-related employer's PIC to acknowledge receipt of this Stipulation and Consent Order by signing the document and providing the same to the Board;
- ii. Notify the Board of all contact information and employment changes within ten (10) days, including discontinuation of position; and
- iii. Notify the Board of any criminal arrest and/or charges within ten (10) days of the arrest or charge.

F. 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; and
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 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.

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 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 17<sup>th</sup> day of July, 2024.

KANSAS BOARD OF PHARMACY

By: 

TERICA GATEWOOD, PHARMD  
President

AGREED AND APPROVED BY:

Janet Hierl RPh  
Janet Hierl, R.Ph.

5/20/2024  
Date

N/A  
Respondent's Attorney's Name & Address

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Date

Tiffany Strömeyer  
Tiffany Strömeyer, PharmD  
Investigation Member

July 11, 2024  
Date

Brenda L. Head  
Brenda L. Head, #15657  
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(785) 354-1100  
[bhead@fflawllp.com](mailto:bhead@fflawllp.com)  
Counsel for the Kansas Board of Pharmacy


5/28/2024  
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 17<sup>th</sup> day of July, 2024 addressed to:

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

Janet Hierl  
313 Dean Court  
Lawrence, KS 66049

  
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Representative of the  
KANSAS BOARD OF PHARMACY