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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

September 20, 2024

CVS Pharmacy #8602
7501 Metcalf Ave
Overland Park KS 66204

RE: Case No. 24-235

To whom it may concern:

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. The fine payment has already been received.

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

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
) Case No. 24-235
CVS PHARMACY #8602)
Kansas Registration No. 2-10067)

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and CVS Pharmacy #8602 ("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 its attorney, N/A

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 is presently entitled to operate a pharmacy located in the State of Kansas at 7501 Metcalf Ave., Overland Park, Kansas 66204, by reason of the Board having issued it Kansas registration number 2-10067 ("Kansas Registration"). At all times relevant hereto, the Respondent has held a current registration to operate a pharmacy in the State of Kansas.

4. The Board's Investigation Member has received certain information, investigated and determined that there are reasonable grounds and probable cause to believe that Respondent has operated in a manner that violates the Kansas Pharmacy Act, K.S.A. 65-1626, *et seq.* and the Board's regulations which would justify the revocation or imposition of other disciplinary action

against its Kansas Registration under the provisions of K.S.A. 65-1627(e)(1) and (e)(7) 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 the following:

A. On May 16, 2024, a routine onsite inspection was conducted by the Board at Respondent's Pharmacy.

B. During the May 16, 2024 onsite Board inspection, the Respondent did not have documentation maintained for Continuous Quality Improvement ("CQI") reports for the second and third quarters of 2023.

C. On May 16, 2024, Respondent's Pharmacist on Duty Andrew Chen (#1-105051) confirmed the first and third quarters of 2023 CQI reports were not available explaining he was unaware that even with no incident, CQI reports still needed to be filled out.

D. On May 16, 2024, the Board's Inspector notified Respondent's Pharmacist-in-Charge ("PIC"), Michael Hanson (#1-16381), via email regarding the missing second and third quarter CQI reports.

E. On May 17, 2024, PIC Hanson provided the Board with Respondent's second and third quarter of 2023 CQI reports, both of which PIC Hanson signed and dated May 17, 2024.

F. K.A.R. 68-19-1 requires, that as part of a pharmacy's required CQI Program, among other things, the pharmacy must meet at least quarterly of each calendar year with the PIC in attendance to discuss all incident reports, establish steps to prevent reoccurrence, review the board newsletter and create a report of the meeting including certain information.

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G. Respondent failed to meet the CQI minimum program requirements for the second and third quarters of 2023 in violation of K.A.R. 68-19-1.

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 Registration pursuant to K.S.A. 65-1627(e)(1) and (e)(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. ADMINISTRATIVE FINE. Respondent shall pay to the Board an administrative fine in the amount of One Thousand Five Hundred Dollars (\$1,500.00) within ten (10) days of the Board approving this Stipulation and Consent Order.

B. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order it 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 or Investigation Committee, 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 its 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 it has the following rights:

- (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 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.

12. The Respondent acknowledges that it enters into this Stipulation and Consent Order freely and voluntarily after consultation with or an opportunity to consult with counsel of its choosing. The Respondent further acknowledges that it has read this Stipulation and Consent Order in its entirety, that it understands its legal consequences and that it 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 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.

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.

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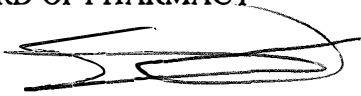
16. This Stipulation and Consent Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's authorized representative.

17. The Respondent acknowledges that it has been advised by the Board that it 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 19th day of September, 2024.

KANSAS BOARD OF PHARMACY

By:



Erick Axcell, PHARMD
Vice-President

AGREED AND APPROVED BY:



CVS Pharmacy #8602

By: Leigh Parenteau

(Print Name)


Sep 10, 2024

Date

N/A

Respondent's Attorney's Name & Address

Date

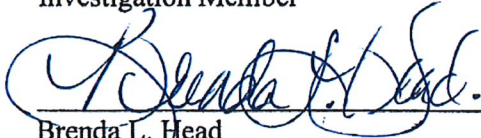


Tiffany Strohmeier, PharmD

Investigation Member

9-19-2024

Date



Brenda L. Head

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

9-10-2024

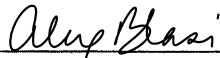
Date

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 20th day of September, 2024 addressed to:

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

CVS Pharmacy #8602
7501 Metcalf Ave.
Overland Park, KS 66204



Representative of the
KANSAS BOARD OF PHARMACY