

BEFORE THE KANSAS BOARD OF PHARMACY

Filed By

DEC 05 2006

KANSAS STATE Board of Pharmacy

In the Matter of )  
 )  
GEORGE ADDLEMAN, R.Ph. )  
 )  
Kansas License No. 1-08313 )

Case No. 06-59

STIPULATION AND FINAL AGENCY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and George Addleman, R.Ph. (the "Respondent") as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden & Forbes, 555 South Kansas Avenue, Suite 303, Topeka, Kansas 66603. The Respondent is represented herein by his attorney, STEVEN HIRSCH.

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.*, including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas license to practice pharmacy.

3. The Respondent is presently entitled to engage in the practice of pharmacy in the State of Kansas by reason of the Board having issued him Kansas license number 1-08313. At all times relevant hereto, the Respondent has held a current license to engage in the practice of pharmacy in the State of Kansas.

4. The Board has received certain information, has investigated and has determined that there are reasonable grounds to believe that the Respondent has

committed an act or acts that would justify discipline of his Kansas pharmacy license pursuant to the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.*

Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board that, as the Pharmacist in Charge and owner of Addleman Drug Store in Oberlin, Kansas, he wrote and implemented a pharmacy policy that permits pharmacy technicians to conduct the final medication check in violation of K.A.R. 68-2-20.

The Board finds and concludes that the conduct described above is grounds for disciplinary action in the State of Kansas pursuant to K.S.A. 65-1627(a)(3) and (8).

5. The Board finds and the Respondent agrees that the following disposition is just and appropriate under the circumstances:

A. FINE. Respondent hereby agrees and consents to the Board's entry of an order assessing against him an administrative fine in the amount of Five Hundred Dollars (\$500.00) for writing and implementing a pharmacy policy at Addleman Drug Store that permits pharmacy technicians to conduct the final medication check, to be paid to the Board within ten (10) days of the effective date of the Final Agency Order contemplated hereby

B. CORRECTED COPY OF THE PHARMACY POLICY. Respondent hereby agrees and consents to rewrite those portions of the Addleman Drug Store pharmacy policy that permit pharmacy technicians to conduct the final medication check and provide the Board with a corrected copy of the pharmacy policy within ten (10) days of the effective date of the Final Agency Order contemplated hereby

C. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Final Agency Order he must:

1. Comply fully with this Stipulation and Final Agency 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 pharmacists.

6. Respondent agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and its attorney regarding the investigation which led 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 Final Agency Order and the Final Order provided for herein, with or without the presence of the Respondent or his attorney. In the event that this Stipulation and Final Agency Order and the Final 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 Stipulation and Final Agency Order or the information mentioned in the preceding sentence and further agrees to waive any claim of a 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.

7. The stipulations contained herein shall not become binding until this Stipulation and Final Agency Action is approved by the Board and the Final Order provided for herein is entered by the Board. The Respondent acknowledges that the approval of the Board's attorney or the Board's Investigation Member shall not constitute

the approval of the Board or bind the Board to approve this Stipulation and Final Agency Action or the Final Order provided for herein.

8. The Respondent agrees that this Stipulation and Final Agency 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 that the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.*, is constitutional on its face and as applied in this case.

9. 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.

10. The Respondent acknowledges that he has the following rights:
- A. To have formal notice of charges served upon him;
  - B. To file a response to the charges;
  - C. To have notice of and participate in a formal adjudicative hearing with the Board 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 Procedures Act and the Act for Judicial Review and Civil Enforcement of Agency Action.

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 him to those provided for herein. The Respondent further waives the right to seek

reconsideration or appeal or otherwise contest this Stipulation and Final Agency Order and the Final Order provided for herein.

11. The Respondent acknowledges that he enters into this Stipulation and Final Agency Order freely and voluntarily after consultation with counsel of his choosing or an opportunity to do so. The Respondent further acknowledges that he has read this Stipulation and Final Agency order in its entirety, that he understands its legal consequences and that he agrees that none of its terms are unconscionable, arbitrary or capricious.

12. Time is of the essence to this Stipulation and Final Agency Order. Respondent acknowledges and agrees that any violation of this Stipulation and Final Agency Order shall constitute a willful violation of a lawful Board order and grounds for further disciplinary action against him. The pendency of any disciplinary action arising out of an alleged violation of this Stipulation and Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Final Agency Order.

13. For purposes of reporting to the National Practitioner's Data Bank, this matter shall be categorized as follows:

A. Adverse Action Classification: "1173 Publicly Available Fine/Monetary Penalty."

B. Basis for Action: "99 Other – Not Classified, Failure to perform function required of a Pharmacist in Charge."

14. The following statement will be made in the Board's newsletter: "A pharmacist and Pharmacist in Charge from Oberlin, Kansas was disciplined by order of

the Board assessing an administrative fine of \$500.00 for approving a policy manual that did not comply with the Pharmacy law.”

15. This Stipulation and Final Agency Order constitutes the entire and final agreement of the parties. In the event any provision of this Stipulation and Final Agency Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Stipulation and Final Agency Order shall be given full force and effect.

16. Upon execution by all parties, this Stipulation and Final Agency Order shall be a public record in the custody of the Board.

17. This Stipulation and Final Agency 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.

18. The Respondent acknowledges that he has been advised by the Board that he 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 Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* and to serve such a petition for judicial review on the Kansas Pharmacy Board by serving Debra L. Billingsley, its Executive Director at Landon Office Building, 900 SW Jackson, Room 560, Topeka, KS 66612-1231. The Respondent hereby waives those rights.

AGREED AND ACCEPTED BY:

George Addleman  
GEORGE ADDLEMAN, R.Ph.

9/29/06  
Date

Joanne Gilstrap  
JOANNE GILSTRAP, R.Ph.  
Investigation Member

12/5/06  
Date

APPROVED BY:

\_\_\_\_\_  
Attorney's Name & Address

\_\_\_\_\_  
Date

Randall J. Forbes  
Randall J. Forbes, #09089  
FRIEDEN & FORBES  
555 S. Kansas Avenue, Suite 303  
Topeka, KS 66603  
(785) 232-7266

10.17.06  
Date

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FINAL ORDER

Upon motion duly made, seconded and passed, the Kansas Pharmacy Board (the "Board") approves and accepts the within Stipulation and Final Agency Order and incorporates the provisions thereof as the Final Order of the Board.

ENTERED AND EFFECTIVE this 5 day of December,  
2006.

KANSAS PHARMACY BOARD

By:   
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Max Heidrick, R.Ph.  
President