BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of	)	
	)	
Deandra J. Guajardo	)	Case No. 18-338
Registration No. 14-17081	)	

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas State Board of Pharmacy (the "Board") and Deandra J. Guajardo ("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 her 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 license to practice pharmacy.

3. The Board previously issued Respondent Pharmacy Technician Registration Number 14-17081 to perform the functions of a pharmacy technician in the State of Kansas ("Kansas Registration"). On April 27, 2018 the Board issued a Summary Order revoking Respondent's Kansas Registration.

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 October 31, 2017 Respondent submitted a renewal application relating to her Kansas Registration.

b. Respondent's renewal application was selected for an audit to verify proof of Respondent's continuing education certificates or a transcript of completion of required hours.

c. Pursuant to the Act and regulations promulgated thereunder, Respondent was required to complete the required continuing education hours during the biennial registration period ending on October 31, 2017.

d. Respondent's NABP CPE Monitor showed completion of zero (0) hours of continuing education during the biennial registration period ending on October 31, 2017..

e. On or about February 6, 2018, the Board sent a letter to Respondent's mailing address on file with the Board requesting proof of Respondent's continuing education hours earned for the biennial registration period ending on October 31, 2017.

f. On or about March 19, 2018, the Board sent Respondent an email to Respondent's email address on file with the Board requesting proof of Respondent's continuing education hours earned for the biennial registration period ending on October 31, 2017.

g. The Board did not receive any response to its February 6, 2018 letter or March 19, 2018 email, and as a result, the Board entered the Summary Order on April 27, 2018 revoking Respondent's Kansas Registration for violation of KSA 65-1627(a)(9) and (15).

h. Respondent did not request a hearing pursuant to the Kansas Administrative Procedures Act within 15 days of service of the Summary Order, i.e., May 15, 2018, and the Summary Order became a final order of the Board on May 15, 2018.

i. On or about August 28, 2018, Respondent provided proof of completion of the continuing education hours required for renewal of Respondent's 2017 pharmacy technician registration. Such response was provided more than six months after the initial request.

6. Upon motion duly made, seconded and passed, the Board finds and concludes that the events described in paragraph 5 above, constitute a violation of 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(a)(15).

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

a. Respondent's Kansas Registration should be and is hereby **REINSTATED**; and

b. ADMINISTRATIVE FINE. Within ten (10) days of the Board entering the Stipulation and Consent Order provided for herein, Respondent shall pay to the Board an administrative fine totaling one hundred dollars ($100.00) for the violation of 65-1627(a)(15).

c. 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:

i. Comply fully with this Stipulation and Consent Order;

ii. Comply fully with the Kansas Pharmacy Act, the Board's rules and regulations and all state and federal laws relating to Kansas pharmacy technicians;

8. 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 action and all information discovered during the pendency of this action may be disclosed to and considered by the Board as part of the presentation and consideration of the proposal 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.

9. The stipulations contained herein shall not become binding until this Stipulation and Consent Order is approved 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.

10. 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 Consent 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.

11. This Stipulation and Consent Order 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.

12. The Respondent acknowledges that she has the following rights:

a. 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 / or

b. 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 action provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order.

13. The Respondent acknowledges that she enters into this Stipulation and Consent Order freely and voluntarily after consultation or an opportunity to consult with counsel of her choosing. The Applicant 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.

14. Time is of the essence to this Stipulation and Consent Order.

15. 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.

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

17. 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.

18. The Respondent acknowledges that she has been advised by the Board that she would have the right within fifteen (15) days after service of the Consent Order provided for herein to file a petition for reconsideration with the Board and the right within thirty (30) days after service of the 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 Director at 800 SW Jackson St., Suite 1414, Topeka, KS 66612. The Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 13 day of September, 2018.

KANSAS BOARD OF PHARMACY

By: _____
DR. JOHN WORDEN
President

AGREED AND APPROVED BY:

Deandra J. Guajardo
Respondent

9/10/18
Date

Bill Walden, R.Ph.
Investigation Member of the Board

9/13/18
Date

N/A
Attorney for Respondent (if none, n/a)

Date

Randall J. Forbes, KS#09089 MO#64335
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
(785) 354-1100
(785) 354-1113 (facsimile)
Attorney for the Board

9/13/18
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 14 day of September, 2018 addressed to:

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

DEANDRA J. GUAJARDO
858 S CAIN AVE
LIBERAL KS 67901
Respondent

Representative of the
KANSAS BOARD OF PHARMACY