

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
ATLAS RX PHARMACY,) Case No. 25-219
)
Registration No. 22-115915)

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Board of Pharmacy (“Board”) and Atlas RX Pharmacy, a licensed non-resident pharmacy owned by Atlas RX, LLC located in Omaha, Nebraska (“Respondent”) as follows:

1. The Board is represented herein by its attorney, Brenda L. Head of Frieden & Forbes, LLP, 1414 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by its attorney, Christopher T. Dang of Quarles & Brady LLP, One Renaissance Square, Two North Central Avenue, Suite 600, Phoenix, Arizona 85004-2322.
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.*, (“Act”) including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas registration to operate a pharmacy.
3. The Respondent is registered as a non-resident pharmacy by reason of the Board having issued Respondent Registration No. 22-115915 on September 30, 2021.
4. The Board’s Investigation Member has determined that there is probable cause to believe that Respondent’s Registration could be disciplined pursuant to K.S.A. 65-1627(e)(1) and (e)(4).

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 April 2, 2025, Respondent entered into an Agreed Settlement with the State of Nebraska Department of Health and Human Services Division of Public Health (hereinafter "Nebraska Agreed Settlement") which constitutes disciplinary action against its Nebraska Community Pharmacy License based upon Respondent's failure to timely respond to a subpoena as required by Nebraska law and for Respondent essentially making copies of anastrozole, clomiphene, sildenafil and tadalafil products by failing to maintain documentation as to the "statement of significant difference" for the compounded prescription as required by Nebraska law. A true and correct copy of the Nebraska Agreed Settlement is attached hereto as **Exhibit A** and fully incorporated herein by reference.

B. K.A.R. 68-2-23 requires each pharmacy owner to notify the Board in writing within 30 days of any denial, limitation, suspension, revocation, voluntary surrender or other disciplinary action taken by the state of Kansas or another jurisdiction against the pharmacy or the pharmacy owner or any application, license, registration or permit held by the pharmacy owner, which Respondent violated.

C. Respondent first notified the Board of the Nebraska Agreed Settlement and disciplinary action on June 17, 2025, thirty-nine (39) days after the issuance of the disciplinary action in violation of K.A.R. 68-2-23.

D. Respondent's records indicate between September 30, 2021 and August 17, 2024, Respondent dispensed the following prescriptions into Kansas, which Respondent admitted

in the Nebraska Agreed Settlement, were essentially a copy drug without sufficient documentation of a specific medical need for an individual patient:

- Anastrozole – 3,342 prescriptions
- Clomiphene – 5,075 prescriptions
- Sildenafil – 4 prescriptions
- Tadalafil – 54 prescriptions
- Total – 8,475 prescriptions

E. K.A.R. 68-13-3(c) provides any pharmacist may compound a nonsterile preparation that is commercially available only if it is different from a product approved by the FDA and there is sufficient documentation of a specific medical need for an individual patient, which Respondent violated as set forth above.

F. K.A.R. 68-2-24(a) requires each pharmacy owner ensure that the pharmacy is operated in compliance with the Kansas pharmacy act, the state and federal uniform controlled substances act, the state and federal food, drug and cosmetic act, the state prescription monitoring program act and all applicable regulations, which Respondent violated as described herein.

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

6. 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 Three Thousand Dollars (\$3,000.00) within ten (10) days of the Board approving this Stipulation and Consent Order.

B. INSPECTIONS. Within three (3) years of the execution of this Stipulation and Consent Order, the Respondent shall be subjected to two in-person inspections approximately 18-24 months apart, each to be conducted by no more than three (3) Board Inspectors with the costs of such inspections to be paid by the Respondent.

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; and
- ii. In all applicable respects, comply fully with the Kansas Pharmacy Act, the Board's rules and regulations and all state and federal laws relating to 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 and the Final Order provided for herein, with or without the presence of the Respondent or its attorney. In the event that this Stipulation and Consent 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 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 by the Board and the Consent Order provided for herein is entered by the Board. If the Board fails to approve this Stipulation and Consent Order, it shall be of no force or effect to either the Board or the Respondent. 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 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.

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 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.

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 Respondent. 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 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 4th day of December, 2025.

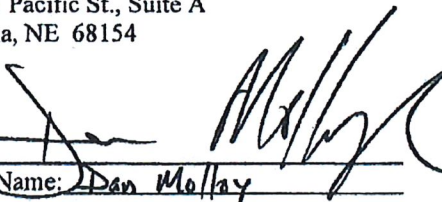
KANSAS BOARD OF PHARMACY


By: 

ERICK AXCELL, PHARM.D.
President

AGREED AND APPROVED BY:

Atlas RX Pharmacy
11923 Pacific St., Suite A
Omaha, NE 68154

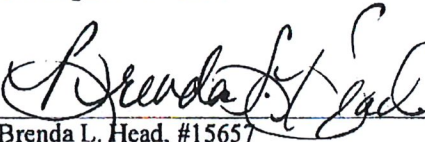

By: _____ Date: 10/18/25
Print Name: Dan Molloy



Date: 11/18/2025
Christopher T. Dang
QUARLES & BRADY LLP
One Renaissance Square
Two North Central Avenue, Suite 600
Phoenix, AZ 85004-2322
(602) 230-5530
christopher.dang@quarles.com
Attorney for Atlas RX Pharmacy



Date: 12-4-2025
Tiffany Strohmeyer, PharmD
Investigation Member



Date: 11-18-25.
Brenda L. Head, #15657
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
(785) 354-1100
bhead@fflawllp.com
Attorney for Kansas Board of Pharmacy

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 8th day of December, 2025 addressed to:

Atlas RX Pharmacy
11923 Pacific St., Suite A
Omaha, NE 68154

Christopher T. Dang
QUARLES & BRADY LLP
One Renaissance Square
Two North Central Avenue, Suite 600
Phoenix, AZ 85004-2322

and sent via email to:

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



Representative of the
KANSAS BOARD OF PHARMACY

FILED

APR 3 2025

STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES DHHS Hearing Office

IN THE MATTER OF) 241484 COMMUNITY
THE REQUEST FOR HEARING BY:) PHARMACY
ATLAS RX LLC) ORDER ON
AGREED SETTLEMENT

This matter came before the Chief Medical Officer on the Department's Motion for Approval of Agreed Settlement. The Chief Medical Officer having considered said Motion and Agreed Settlement:

- 1. Approves the Agreed Settlement; and
- 2. Orders the parties to comply with all the terms of the Agree Settlement.

Dated this 3 day of April, 2025.

Timothy A. Tesmer
Timothy A. Tesmer, MD
Chief Medical Officer
Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of April, 2025, true and correct copies of the foregoing Order were served upon the parties by sending the same by certified United States mail, sufficient postage prepaid, return receipt required and by regular United States mail, and electronically to attorneys for Atlas RX LLC: Katherine A. McNamara and Alexander K. Shaner, at McGrath North Mullin & Kratz, PC LLO, 1601 Dodge St. Suite 3700, Omaha, Nebraska 68102, and Christopher Dang, at Quarles & Brady LLP, One Renaissance Square, Two North Central Avenue, Ste. 600, Phoenix, AZ 85004, and Teresa Hampton, attorney for Department at Teresa.hampton@nebraska.gov.

Meryl G. A.
DHHS Hearing Office
P. O. Box 98914
Lincoln, NE 68509-8914
P. (402) 471-7237 F. (402) 742-2376

9589 0710 5270 1560 5949 37

EXHIBIT A

STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

IN THE MATTER OF) 241484 COMMUNITY
THE REQUEST FOR HEARING BY:) PHARMACY
ATLAS RX LLC) AGREED SETTLEMENT

COMES NOW the Department of Health and Human Services, Division of Public Health (hereinafter "Department"), and Atlas RX LLC (hereinafter "Licensee"), and enters into this settlement agreement (the "Agreed Settlement"). Collectively, the Department and Licensee are referred to herein as the "Parties." In consideration of the mutual covenants and agreements contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Licensee holds Community Pharmacy License #3220 and is located at 11923 Pacific St., Suite A, Omaha, NE 68154. Such license was issued by the Department, the executive agency of the State of Nebraska charged with administration of Pharmacy licensure statutes and regulations.
2. On June 7, 2024, Department issued to Licensee a Notice of Disciplinary Action ("Notice").
3. Licensee thereafter timely requested an informal conference. A decision was issued as a result of the informal conference and Licensee timely requested a formal hearing.
4. By entering this Agreed Settlement, Licensee waives its right to a formal administrative hearing as previously requested in this matter and waives any right to judicial review of an order adopting this Agreed Settlement.
5. Licensee is represented in this matter by attorneys Katherine McNamara and Alexander Shaner of McGrath North Mullin & Kratz, PC LLO, 1601 Dodge Street, Suite 3700, Omaha, Nebraska, and attorney Christopher Dang of Quarles & Brady LLP. Licensee has received the advice of legal counsel in connection with review and execution of this document.
6. Licensee agrees that it and its representatives have the authority to enter into this Agreed

Settlement. No coercion, threats, or promises other than those stated herein were made to induce Licensee to enter into this Agreed Settlement. Licensee's signature below represents its entry into this Agreed Settlement freely, voluntarily, and knowingly.

7. Licensee acknowledges that any failure to comply with the terms and conditions herein or with any relevant statutes and regulations is basis for disciplinary action by Department, including revocation of its license, upon notice to Licensee and an opportunity for a hearing. Future compliance shall be monitored by Department staff and may be monitored by other agencies or entities on behalf of Department. Licensee agrees it will cooperate with the Department and its representatives with respect to future monitoring by the Department.
8. This Agreed Settlement does not constitute a waiver, suspension, or modification of the requirements of the Health Care Facility Licensure Act (Neb. Rev. Stat. § 71-401 *et seq.*), Uniform Credentialing Act (Neb. Rev. Stat. § 38-101 *et seq.*), The Pharmacy Practice Act (Neb. Rev. Stat. § 38-2801 *et seq.*), The Uniform Controlled Substances Act (Neb. Rev. Stat. § 28-401 *et seq.*), or the regulations adopted under these Acts.
9. Since the Notice was issued, Licensee has submitted documents sufficient to the Department which address the issues related to the allegations in the Notice related to recordkeeping and destruction of medication products. The Department acknowledges that Licensee has updated its policies and procedure to improve recordkeeping for dispensed medication and destruction of medication products.
10. Licensee agrees it will comply with Neb. Rev. Stat. § 38-2867.01(5)(b); Neb. Rev. Stat. § 38-179(10); and FDA Guidance on Compounding Essential Copies. When compounding, Licensee will obtain from the prescriber and maintain for each prescription a statement of significant difference for the adjustments made to each compound (e.g. reason(s) for change in route of administration or change in strength) and documentation for compounding done in anticipation of dispensing.
11. Licensee agrees to pay a fine in the amount of \$2,500.00 for failure to timely respond to the February 9, 2024 subpoena from the Department as required by Neb. Rev. Stat §71-448(5), and agrees to pay a fine in the amount of \$2,500.00 for essentially making copies of anastrozole, clomiphene, sildenafil, tadalafil products by failing to maintain

documentation as to the "statement of significant difference" for the compounded prescriptions as required by Neb. Rev. Stats. § 38-2867.01(5)(b) and 38-179(10), for a total fine of five thousand dollars (\$5,000.00). Licensee agrees to pay the total fine within thirty (30) days of approval of the settlement agreement.

12. Licensee acknowledges that under Neb. Rev. Stat. § 71-449 a fine is considered a disciplinary action.
13. Licensee denies the remaining allegations in the Notice of Disciplinary Action.
14. Licensee acknowledges that it has received no representations from the Department or its employees or representatives of the effect this Agreed Settlement may have on its ability to obtain a license or other authorization document of any nature in this or any other jurisdiction.
15. Licensee and Department consent to the Chief Medical Officer of the Nebraska Department of Health and Human Services entering an Order adopting this Agreed Settlement. If the Chief Medical Officer does not adopt such Order, this Agreed Settlement shall be null and void and will not be admissible for any hearing that may be held in this matter. Counsel for the Department will present this Agreed Settlement and a proposed Order to the Chief Medical Officer ex parte.
16. This Agreed Settlement and the application or interpretation hereof shall be governed exclusively by the laws of the State of Nebraska, without regard to conflicts of laws principles which would result in the application of the laws of another jurisdiction.
17. This Agreed Settlement constitutes the entire understanding between the Parties with respect to the Notice and supersedes all prior arrangements or understandings, oral and written, between the Parties with respect to such matters. This Agreed Settlement may not be amended or modified except by a written agreement signed by all parties hereto.
18. The invalidity or unenforceability of any provision of this Agreed Settlement shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.

WHEREFORE, the parties request that an Order be entered approving and adopting the terms of this Agreement.

Dated this 2 day of April, 2025.

ATLAS RX, LLC

BY: Jared D. Widseth
Jared Widseth, Chief Legal and Administrative Officer

Approved as to form and content:

/s/ Katherine A. McNamara
Katherine A. McNamara, #25142
Alexander K. Shaner, #27092
McGrath North Mullin & Kratz, PC LLO
1601 Dodge St. Suite 3700
Omaha, Nebraska 68102
(402) 341-3070
Attorneys for Licensee

Dated this 3rd day of April, 2025.

Nebraska Department of Health
Nebraska Department of Health
and Human Services

By Teresa M Hampton
Teresa Hampton, #16746
Attorney for the Department
301 Centennial Mall South,
P.O. Box 95026
Lincoln, NE 68509-5026
(402) 610-5286