

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of )  
 ) Case No. 24-218  
CVS PHARMACY #10862 )  
Kansas Registration No. 2-104562 )

**STIPULATION AND CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the “Board”) and CVS Pharmacy #10862 (“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, Jacob G. Holly of Foulston Siefken, LLP, 822 S. Kansas Ave., Suite 200, Topeka, Kansas 66612-1203 and David S. Mitchell, Jr., of Rose Law Firm, 120 East Fourth Street, Little Rock, Arkansas 72201.

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 110 W. Main Street, Gardiner, Kansas, by reason of the Board having issued it Kansas registration number 2-104562 (“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 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

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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:

A. On December 29, 2022, Respondent sustained a controlled substance loss of #216 Tramadol 50mg tablets which Respondent first reported to the Board on March 15, 2023 via email and which Respondent described as “a non-significant loss.” Respondent did not provide the Board with a DEA 106 form regarding the loss.

B. On December 19, 2023, Respondent reported a controlled substance loss of #418 clonazepam 1mg tablets on DEA 106 form to the Board, which Respondent had discovered on November 7, 2023. Respondent described this controlled substance loss as “an unknown loss.”

C. On February 19, 2024, Respondent reported a controlled substance loss of #315 Tramadol 50mg tablets on DEA 106 form to the Board, which Respondent had discovered on January 19, 2024. Respondent described this controlled substance loss as “an unknown loss.”

D. On April 11, 2024, Respondent initially reported a controlled substance loss due to a variance of Tramadol 50mg tablets and on May 21, 2024, Respondent reported the April 11, 2024 controlled substance loss of #229 Tramadol 50mg tablets as “a non-significant loss.”

E. On March 20, 2024, Respondent’s Pharmacist-in-Charge (PIC), Samuel Glennon, reported that he had not seen the DEA 106 forms for the November 7, 2023 loss of #418 clonazepam 1mg tablets or the January 19, 2024 loss of #315 Tramadol 50mg tablets.

F. K.A.R. 68-20-15a(a) requires that each applicant and registrant shall provide effective controls and procedures to guard against theft and diversion of controlled substances in conformance with the security requirements of federal law.

G. From at least December 29, 2022 through April 11, 2024, Respondent failed to provide effective controls and procedures to guard against theft and diversion of controlled substances in violation of K.A.R. 68-20-15a(a).

H. K.A.R. 68-20-15a(e)(2) provides additional security controls and operating procedures may be required by the Board to prevent diversion of controlled substances.

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

B. DIVERSION PREVENTION POLICY CHANGE REQUIREMENTS. Within ten (10) days of the Board approving this Stipulation and Consent Order, Respondent shall update and submit its diversion prevention policy ("policy") to provide effective controls and procedures to guard against theft and diversion of controlled substances in compliance with K.A.R. 68-20-15a(a) and as required herein to be in place for a period of at least two (2) years from the date the Board approves the updated policy. Respondent's policy shall include the following:

“Significant loss” shall mean an unexplained controlled substance loss of:

- (1) five units or more of a solid oral dosage form;
- (2) 25 milliliters or more of any oral liquid dosage form,
- (3) two milliliters or more of a liquid injectable dosage form;
- (4) two units or more of a solid injectable dosage form;
- (5) two units or more of a topical dosage form, including suppositories; or
- (6) five or more instances of any loss of the same drug within a 12-month period.

Either the pharmacist-in-charge, the pharmacy owner, or designee shall notify the board in writing of any actual or suspected diversion, theft, or significant loss within one business day of discovery of such actual or suspected diversion, theft, or significant loss.

If upon determining that actual or suspected diversion, theft, or significant loss of any controlled substance occurred, the pharmacist-in-charge, pharmacy owner, or designee shall provide the board a copy of the following within sixty days:

- (A) a copy of each submitted and/or modified DEA 106 form issued by the U.S. department of justice, or if a DEA 106 form was not submitted, a report of the missing drugs shall be submitted on Board Form KS-106 furnished by the board or Respondent will provide all of the responsive information equivalent to that sought in Form KS-106; and
- (B) a description of the facility’s plan to prevent the recurrence of

diversion, theft, or loss of the controlled substance or substances reported as defined herein.

If an investigation of the actual or suspected diversion, theft, or significant loss results in the determination that no loss actual loss of a controlled substance occurred, the pharmacist-in-charge, pharmacy owner, or designee shall notify the board in writing that no actual loss of a controlled substance occurred.

The Board shall approve or reject the Respondent's submitted updated policy within thirty (30) days of submission. In the event the Board rejects Respondent's updated policy, upon notification, Respondent shall resubmit its revised updated policy within ten (10) days until such time as the Board accepts Respondent's policy.

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:

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.

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 4<sup>th</sup> day of December, 2025.

KANSAS BOARD OF PHARMACY

By: \_\_\_\_\_

  
ERICK AXCELL, PHARMD  
President

AGREED AND APPROVED BY:




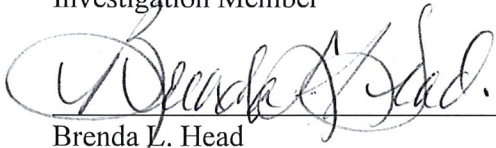
CVS Pharmacy #10862



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**Counsel for the Kansas Board of Pharmacy**

12/04/2025

Date

12/04/2025

Date

12-4-2025

Date

12/4/2025

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 8<sup>th</sup> day of December, 2025 addressed to:

CVS Pharmacy #10862  
110 W. Main St.  
Gardiner, KS 66030

Jacob G. Holly  
FOULSTON SIEFKEN, LLP  
822 S. Kansas Ave., Suite 200  
Topeka, KS 66612-1203

David S. Mitchell, Jr.  
ROSE LAW FIRM  
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and sent via email to:

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Representative of the  
KANSAS BOARD OF PHARMACY