Filed By
OCT 25 2018
KANSAS STATE
BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of	)	
	)	Case No. 17-190
Distinguished Pharmacy	)	
	)	
Registration No. 22-44494	)	

SUMMARY ORDER OF REVOCATION

NOW on this 25 day of October, 2018, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Distinguished Pharmacy (Respondent).

Pursuant to the authority granted to the Board by the Kansas Pharmacy Act, K.S.A. 65-1625, *et seq.*, and in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board's Executive Secretary enters this Summary Order of Revocation in the above-captioned matter. After reviewing the investigation materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

For purposes of this order, the Board's Executive Secretary makes the following findings of fact:

1. On October 27, 2016, a "Notice of Exemption from Reporting" was filed by authorized agent Ifiok (John) Akpaffiong. The statement made on the form stated: "Mail order pharmacy only fills diabetic supplies."

2. On or about September 6, 2017, the Board received a complaint from a prescriber's clinic regarding Respondent's solicitation of prescriptions for patients. The complaint included that patients did not know of the pharmacy nor did they have a diagnosis

that had been established with the prescriber's clinic. The prescriber's clinic had received multiple requests for multiple patients. Additionally, the complaint included a copy of a medication order for Lidocaine 5% Topical Ointment from Respondent, which is not a diabetic supply.

3. On June 7, 2018, the Board received a BA-50 Change in PIC form from Respondent identifying the incoming PIC as Ruhtlove W. Kwarteng as of March 23, 2018. The Texas Board of Pharmacy's documentation from Respondent showed Ngozi Emeka Onukwube was to become PIC on March 23, 2018, conflicting with what the Kansas Board of Pharmacy received.

4. On July 24, 2018, Respondent obtained a PIC licensed in the State of Kansas and notified the Board of the new PIC on July 30, 2018.

5. On July 30, 2018, the Board received Respondent's renewal application on which Respondent answered "No" to the following question: "Has any license or registration, currently or previously held by the applicant or the PIC been surrendered to, denied, disciplined, censured, suspended, limited, placed on probation, or revoked by any state or federal government?"

6. Upon investigation, the Board discovered that, according to the minutes from the June 28, 2017 Oklahoma State Board of Pharmacy meeting, the Oklahoma State Board of Pharmacy revoked Respondent's Oklahoma Pharmacy registration on June 28, 2017 for failure to have a pharmacist in charge licensed by the Oklahoma State Board of Pharmacy and multiple other violations of state and federal regulations.

7. Upon investigation, the Board discovered that the Iowa Board of Pharmacy revoked Respondent's Iowa Pharmacy registration on March 14, 2018 for solicitation of

prescriptions for a deceased patient; for making misleading, deceptive, untrue or fraudulent representations and engaging in unethical conduct or practice harmful or detrimental to the public; and for failure to have a pharmacist in charge.

CONCLUSIONS OF LAW

8. Pursuant to K.S.A. 65-1658, the Board may assess a civil fine not to exceed $5,000, after notice and an opportunity to be heard, to any registrant for violation of the pharmacy act of the state of Kansas or any other rules or regulations of the state board of pharmacy.

9. Pursuant to K.A.R. 68-1-2a(b), each pharmacy or registrant required to have a pharmacist-in-charge that operates for more than 30 days without a designated pharmacist-in-charge who meets the requirements of this regulation shall be deemed to be in violation of K.S.A. 65-1627(e).

10. Pursuant to K.A.R. 68-7-12a, each nonresident pharmacy shall designate a pharmacist-in-charge, as defined by K.S.A. 65-1626 and amendments thereto, who shall be named in the application and who shall be responsible for receiving communications with the board.

11. That pursuant to K.S.A. 65-1627(e)(1), the board may revoke, suspend, place in a probationary status or deny a renewal of the registration of a pharmacy upon a finding that such pharmacy has been operated in such a manner that violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the board have occurred in connection therewith.

12. Pursuant to K.S.A. 65-1627(e)(4), the board may revoke, suspend, place in a probationary status or deny a renewal of the registration of a pharmacy upon a finding that the

registrant has had a registration revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for registration denied, by the proper registering authority of another state, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

13. Respondent's failure to identify a PIC licensed in Kansas until July 30, 2018 means the facility was functioning without identifying a PIC for 128 days, in violation of K.A.R. 68-1-2a(b), 68-7-12a, and K.S.A. 65-1627(e).

14. Respondent's solicitation of treatment, as evidenced by the complaint containing a copy of a medication order is a violation of the rules and regulations of the board and a basis to revoke Respondent's Registration pursuant to K.S.A. 65-1627(e)(1).

15. Respondent's false statements to the Board, as evidenced by its statement that it only fills diabetic supplies and the prescription order for Lidocaine Ointment 5%, which is not a diabetic supply, is a basis to revoke Respondent's Registration pursuant to K.S.A. 65-1627(e)(1).

16. Respondent's false statements to the Board, as evidenced by its answer of "No" regarding disciplinary history in other states and the Board's confirmation from the Oklahoma and Iowa Boards that Respondent's Registration for those states has been revoked is a basis to revoke Respondent's Registration pursuant to K.S.A. 65-1627(e)(1).

17. Respondent's registration revocation by the Oklahoma State Board of Pharmacy is a basis to revoke Respondent's Registration pursuant to K.S.A. 65-1627(e)(4).

18. Respondent's registration revocation by the Iowa Board of Pharmacy is a basis to revoke Respondent's Registration pursuant to K.S.A. 65-1627(e)(4).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent is ordered to pay a fine to the Board. A violation of K.A.R. 68-1-2a(b) warrants a base fine of $1,000.00. Every day that Respondent is in violation of the regulation, the fine accrues $20.00. Because Respondent was 128 days late, the fine accrued $2,560.00. Respondent has 30 days from the date of this order to pay the full $3,560.00.

Based upon the foregoing findings of fact and conclusions of law, Respondent's Registration is hereby REVOKED.

NOTICES

The Respondent is hereby notified as follows:

19. The Respondent may request a hearing pursuant to the Kansas Administrative Procedure Act by filing a written request with the Kansas Board of Pharmacy, 800 SW Jackson, Suite 1414, Topeka, KS 66612-1231 within fifteen (15) days after service of this order.

20. If a hearing is not requested as described above, the Order revoking the Respondent's Registration, as a pharmacy technician shall become a final order of the Board, effective upon the expiration of the time to request a hearing.

21. Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

22. Within the time limits established in K.S.A. 77-613, either party may seek judicial review of a final agency order, pursuant to said statute. The agency officer designated to receive service of a petition for judicial review is:

Alexandra Blasi
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

IT IS SO ORDERED.

10/25/18
Date

Alexandra Blasi, JD, MBA
Executive Secretary
Kansas Board of Pharmacy

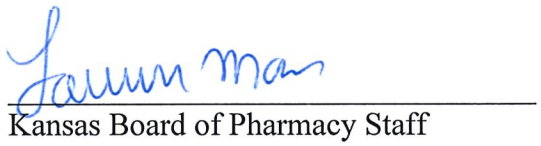
CERTIFICATE OF SERVICE

I hereby certify that I did, on the 25 day of October, 2018, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order of Revocation, properly addressed to the following:

Distinguished Pharmacy
12134 Beechnut Street
Houston, TX 77072

and the original hand delivered to:

Alexandra Blasi
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Ste. 1414
Topeka, KS 66612



Kansas Board of Pharmacy Staff