

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
CVS Pharmacy #05271)
)
Registration No. 2-09939)

Case No. 16-146

Filed By
OCT 20 2016
KANSAS STATE
BOARD OF PHARMACY

SUMMARY ORDER

NOW on this 20 day of October, 2016, comes before the Kansas Board of Pharmacy (the "Board"), through its Investigation Member, the matter of CVS Pharmacy #05271 ("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 Investigation Member enters this Summary Order 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

1. The Board has previously issued Respondent Registration No. 2-09939 which entitles Respondent to function as a pharmacy in the State of Kansas ("Respondent's Registration").

2. On or about April 26, 2016, the Board received an email notification from outgoing pharmacist in charge ("PIC"), Claudie Mikessell, of his resignation as PIC effective May 11, 2016.

3. On or about June 10, 2016, the Board office received a Change of PIC Form BA-50 indicating Shahnaz Pedram, R. Ph. would be assuming the role of PIC.

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4. Part C of Form BA-50 was not completed asking for a waiver.
5. On June 14, 2016, the Board sent a PIC examination to Ms. Pedram, indicating that Ms. Pedram had 30 days from the date of the previous PIC's resignation to complete the examination and return it to the Board.
6. On June 23, 2016, a representative of the Board contacted Ms. Pedram to confirm receipt of the exam.
7. On that date, after hours, Ms. Pedram returned the completed PIC exam.
8. On June 24, 2016, the Board processed the PIC change.

CONCLUSIONS OF LAW

9. 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.
10. Pursuant to K.A.R. 68-1-2a(b), each registrant required to have a PIC that operates for more than 30 days without a designated PIC shall be deemed to be in violation of K.S.A. 65-1627(e).
11. Pursuant to K.A.R. 68-1-2(a) and (c), each prospective PIC shall take a pharmacy law examination administered by the Board. However, a PIC who has already passed the examination shall not be required to retake it upon assuming the duties of a PIC.
12. Outgoing PIC, Mr. Mikessell notified the Board of his resignation as PIC, effective May 11, 2016.
13. Respondent had 30 days to designate a new PIC, or until June 10, 2016.

14. Since Ms. Pedram had never been a PIC, she was required to complete a PIC exam as part of the PIC Change application.

15. Respondent submitted the Change in PIC Form BA-50 indicating its new PIC as Shahnaz Pedram on June 11, 2016.

16. Respondent failed to submit the complete Change of PIC application and completed PIC exam to the Board until June 23, 2016, which was 13 days beyond the 30-day window for designating a new PIC.

17. Because it took the Board three days to process the PIC change form and request the PIC exam, Respondent was only 10 days beyond the 30-day window designating a new PIC.

18. Respondent violated K.A.R. 68-1-2a(b) when it failed to designate a PIC to the Board within 30 days.

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 10 days late, the fine accrued \$200.00. Respondent has 30 days from the date of this order to pay the full \$1,200.00, or until Monday, November 21, 2016.

NOTICES

The Respondent is hereby notified as follows:

1. 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.

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2. If a hearing is not requested as described above, the Order shall become a final order of the Board, effective upon the expiration of the time to request a hearing.


3. 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.

4. 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.

October 20, 2016
Date


Michael Lonergan, R. Ph.
Investigation Member
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 20 day of October, 2016, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order, properly addressed to the following:

CVS Pharmacy #5271
9501 Nall Ave
Overland Park, KS 66207

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