

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of )  
 )  
Bender's Prescription Shop )  
 )  
Registration No. 22-44939 )

Case No. 18-675

**SUMMARY ORDER**

NOW on this 2 day of November, 2018, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Bender's Prescription Shop (22-44939) ("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 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. 22-44939 which entitles Respondent to function as a Non-Resident Pharmacy in the State of Kansas ("Respondent's Registration").

2. On September 20, 2018, the Board office received a notification of a pharmacist in charge ("PIC") change from Bender's Prescription Pharmacy notifying that former PIC Sheri Marshall's last day as PIC was October 2, 2017 and that current PIC Patricia Weitz's first day as PIC was October 3, 2017.

3. The September 20, 2018 notification was the first time the Board was made aware of the change in PIC.

#### CONCLUSIONS OF LAW

4. 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.

5. Pursuant to K.A.R. 68-1-2a(b), each pharmacy 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).

6. Since Respondent indicated that Sheri Marshall's last day as PIC was October 2, 2017, Respondent had 30 days to designate a new PIC by notification to the Board, or until November 1, 2017.

7. Respondent failed to submit the complete Change of PIC application to the Board until September 20, 2018, which was 323 days beyond the 30-day window for designating a new PIC.

8. Respondent violated K.A.R. 68-1-2a(b) when it failed to provide a completed application for a designated 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 323 days late, the fine accrued \$6,460.00. Respondent has 30 days from the date of this order to pay the full \$7,460.00.

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.

2. 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.

3. 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.

11/1/19  
Date

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

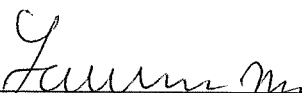
CERTIFICATE OF SERVICE

I hereby certify that I did, on the 2 day of November, 2018, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order, properly addressed to the following:

Bender's Prescription Shop  
3829 Frederick Ave  
Saint Joseph, MO 64506

and the original hand delivered to:

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

  
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Kansas Board of Pharmacy Staff