

December 9, 2021

Biofeet
7329 N 97th St
Overland Park KS 66212

RE: Case No. 21-253

Dear Mr. Burgess:

Enclosed you will find a Summary Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety. In addition, a civil fine has been assessed totaling \$2,840. Please submit a check or money order made payable to the Kansas Board of Pharmacy and include your case number in the check memo.

If you disagree with the findings of fact, you have the right to request a hearing. Instructions for filing a written request are included under the "Notices" section of the order. Hearings are held before the full Board during their regularly scheduled quarterly meetings.

According to KSA 65-1627h, the Board is required to recoup the costs of administrative hearings when the decision is adverse to the licensee. These costs may include charges for services rendered by the Board's disciplinary counsel, an administrative law judge, and, if applicable, a court reporter.

If you have any questions, feel free to contact the Board at Pharmacy.Compliance@ks.gov.

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of)	
)	Case No. 21-253
Biofeet)	
)	
<u>Registration Number 16-44447</u>)	

SUMMARY ORDER

NOW, on this 9th day of December 2021, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Biofeet. ("Applicant"), for application for renewal of Applicant’s durable medical equipment provider registration in the state of Kansas.

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 provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board enters this Summary Order in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, the Board makes the following findings, conclusions, and order:

FINDINGS OF FACT

1. Applicant was previously issued registration number 16-4447 by the Board to operate as a durable medical equipment provider in Kansas (“Applicant’s Registration”).
2. On July 1, 2021, Applicant’s Registration expired for nonrenewal.
3. On October 1, 2021, the Board received Applicant’s application for late renewal of Applicant’s durable medical equipment provider registration in the State of Kansas (“Applicant’s Application”).
4. Applicant operated for 92 unique days during the period when Applicant’s Registration was expired.

CONCLUSIONS OF LAW

1. 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.

2. Pursuant to K.S.A. 65-1627(f)(6), the Board may take action against the application of any durable medical equipment provider upon a finding that the applicant has violated the pharmacy act of the state of Kansas or any regulation adopted by the Board.

3. Pursuant to K.S.A. 65-1643(m), it shall be unlawful for any person to sell or lease or offer for sale or lease durable medical equipment without first obtaining a registration from the Board.

4. Applicant's act of operating in Kansas with an expired durable medical equipment provider registration is a violation of K.S.A. 65-1643(m) and is a basis to take action against Applicant's Application pursuant to K.S.A. 65-1627(f)(6).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application is hereby GRANTED but Applicant is ordered to pay a fine to the Board in the amount of \$2,840. Applicant has 30 days from the date of this order to pay the fine and the registration shall be issued upon receipt.

NOTICES

Applicant is hereby notified as follows:

1. Applicant 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 15 days after service of this Order. If the outcome of the hearing

is adverse to Applicant, costs of the proceedings shall be charged to Applicant.

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 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 K.S.A. 77-613. 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.

12/9/2021

Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 9th day of December 2021, deposit in business mail a copy of the foregoing Summary Order, which is then placed in the United States Mail, postage prepaid, properly addressed to the following:

Biofeet
7329 N 97th St
Overland Park KS 66212



Kansas Board of Pharmacy Staff