

September 6, 2019

CLARIFY MEDICAL, INC.
10505 SORRENTO VALLEY RD, STE 450
SAN DIEGO, CA 92121

RE: Case No. 19-440

To whom it may concern:

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 \$500. 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

Filed By

SEP 9 2019

KANSAS STATE BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Clarify Medical, Inc.)
)
Registration No. 16-107356)

Case No. 19-440

SUMMARY ORDER

NOW, on this 9th day of September 2019, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Director, the matter of Clarify Medical, Inc. ("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. 16-107356 which entitles Respondent to operate as a Durable Medical Equipment ("DME") provider in the State of Kansas ("Respondent's Registration").
2. On April 1, 2019, the address of Respondent's facility was changed from 401 West A Street, Suite 950, San Diego, CA to 10505 Sorrento Valley Road, Suite 450, San Diego, CA.
3. On July 8, 2019, the Board received from Respondent a Form BA-16 DME Provider Registration Application ("Application"), notifying of the change in address from 401

West A Street, Suite 950, San Diego, CA to 10505 Sorrento Valley Road, Suite 450, San Diego, CA, effective April 1, 2019, and applying for a new DME provider registration at the new address.

4. On July 10, 2019, the Board approved Respondent's Application, effective immediately.

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. 65-1643(m), it shall be unlawful for any person to sell or lease durable medical equipment without first obtaining a registration as a durable medical equipment provider from the Board.

3. Respondent's application documents indicated Respondent had functioned as a durable medical equipment provider in the state of Kansas prior to obtaining registration as a durable medical equipment provider from the Board on July 10, 2019.

4. By operating as a durable medical equipment provider in the state of Kansas prior to its DME Provider Application approval by the Board, Respondent violated K.S.A. 65-1643(m).

ORDER

The Board finds and concludes that Respondent's conduct, as described above, violates the Act and such conduct warrants the imposition of a fine pursuant to K.S.A. 65-1658, in the amount of \$500.00. Respondent has 30 days from the date of this order to pay the full \$500.00.

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. 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.

Date

9/9/19


Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 9th day of September 2019, 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:

CLARIFY MEDICAL, INC.
10505 SORRENTO VALLEY RD, STE 450
SAN DIEGO, CA 92121



Kansas Board of Pharmacy Staff