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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

August 19, 2019

CPAP SUPPLIES & SERVICES LLC
2905 SW GAGE BLVD
TOPEKA, KS 66604

RE: Case No. 19-412

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 \$1,840.00. 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 BOARD OF PHARMACY

In the Matter of)
)
CPAP Supplies & Services LLC)
)
Registration No. 16-105653)

Case No. 19-412

SUMMARY ORDER

NOW, on this 19th day of August 2019, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Director, the matter of CPAP Supplies & Services LLC ("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 Permit No. 16-105653 ("Respondent's Registration") which entitles Respondent, as a non-pharmacy facility, to operate as a Durable Medical Equipment ("DME") provider in the State of Kansas.
2. On June 30, 2019, Respondent's Registration expired.
3. On August 12, 2019, the Board received Respondent's application for registration renewal Form BR-16 ("Application for Renewal").
4. On August 12, 2019, the Board processed Respondent's Application for Renewal, immediately granting registration renewal.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1645(e), if application for renewal is not made prior to expiration, the existing registration or permit shall lapse and become null and void on the date of its expiration, and no new registration or permit shall be granted except upon payment of the required renewal fee plus a penalty equal to the renewal fee.

2. In accordance with K.S.A. 65-1645(e), Respondent's registration became null and void upon expiration date of June 30, 2019, as Respondent failed to apply for renewal with the Board until forty-two (42) days later on August 12, 2019, when new registration was granted.

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

5. Respondent violated K.S.A. 65-1643(m) by continuing to operate for forty-two (42) days as a DME provider in the state of Kansas without obtaining a registration from the Board.

6. 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.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent is ordered to pay to the Board a fine of \$1,000 plus \$20.00 per day that Respondent was in violation of the regulation, not to exceed \$5,000. Because Respondent was in violation of the regulation for forty-two (42) days, the total fine is \$1,840. Respondent has thirty (30) days from the date of this order to pay the full \$1,840.00.

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.


2/19/19
Date

Alexandra Blasi
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 19th day of August 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:

CPAP SUPPLIES & SERVICES LLC
2905 SW GAGE BLVD
TOPEKA, KS 66604



Kansas Board of Pharmacy Staff