

BEFORE THE KANSAS BOARD OF PHARMACY

Case No. 19-516

In the Matter of )  
 )  
 Gibson Health Mart )  
 )  
Registration No. 2-07188 )

**SUMMARY ORDER**

NOW, on this 14th day of November 2019, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Director, the matter of Gibson Drug Inc., dba Gibson Health Mart (“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. On January 4, 1988, the Board issued Pharmacy registration number 2-07188 to Gibson Drug, Inc., owner, to operate Gibson Drug, Inc. as a pharmacy in the State of Kansas.
2. Respondent’s Pharmacy registration 2-07188 was timely renewed prior to June 30<sup>th</sup> each year from 2006 through 2019.
3. On January 1, 2012, the ownership of Respondent’s facility was changed from Gibson Drug, Inc. to Bernita Augustine, corporate owner. On this same day, the name of Respondent’s facility was changed from Gibson Drug, Inc. to Gibson Drug, Inc. dba Gibson Health Mart.

4. On May 21, 2012, Respondent renewed Pharmacy registration 2-07188, which still listed Gibson Drug, Inc. as the owner and was approved by the Board on May 21, 2012.
5. On June 7, 2013, Respondent renewed Pharmacy registration 2-07188, which still listed Gibson Drug, Inc. as the owner and was approved by the Board on June 7, 2013.
6. On May 20, 2014, Respondent renewed Pharmacy registration 2-07188, which still listed Gibson Drug, Inc. as the owner and was approved by the Board on May 20, 2014.
7. On May 27, 2015, Respondent renewed Pharmacy registration 2-07188, which still listed Gibson Drug, Inc. as the owner and was approved by the Board on May 27, 2015.
8. On June 3, 2016, Respondent renewed Pharmacy registration 2-07188, which still listed Gibson Drug, Inc. as the owner and was approved by the Board on June 6, 2016.
9. On June 5, 2017, Respondent renewed Pharmacy registration 2-07188, which still listed Gibson Drug, Inc. as the owner and was approved by the Board on June 5, 2017.
10. On June 5, 2018, Respondent renewed Pharmacy registration 2-07188, which still listed Gibson Drug, Inc. as the owner and was approved by the Board on June 5, 2018.
11. On or about June 14, 2019, the Board received from Respondent a Form BA-02 Pharmacy Registration Application (“Respondent’s Application”) notifying the Board of the change in ownership and name that became effective January 1, 2012, and applying for a new Pharmacy registration listing Bernita Augustine as the owner and Gibson Drug, Inc. dba Gibson Health Mart as the name.
12. On June 20, 2019, the Board approved Respondent’s Application and issued a Pharmacy registration to the new owner under the same registration number 2-07188, 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(a), it shall be unlawful for any person to operate, maintain, open, or establish any pharmacy within Kansas without first obtaining a registration from the Board, in accordance with rules and regulations adopted by the Board and including the name of the person(s) applying for the registration.

3. Pursuant to K.S.A. 65-1627(e)(1), a registration may be suspended, revoked, placed in a probationary status or the renewal of such registration may be denied by the board upon a finding that the pharmacy has been operated in such manner that violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the board have occurred in connection therewith.

4. Pursuant to K.S.A. 65-1645(e), all Pharmacy registrations shall expire every year, shall be required to be renewed annually, and are not transferable.

5. Pursuant to K.A.R. 68-2-9, each registrant shall notify the Board in writing of any change in majority ownership of the operation for which the registration was issued within five days after the date the change in ownership becomes effective.

6. Respondent's failure to notify the Board of its ownership and name changes and obtain a new Pharmacy registration until June 14, 2019 – more than seven years after the change occurred – means Respondent was operating as a Pharmacy without a valid permit, in violation of K.S.A. 1643(a).

7. Respondent materially falsified a renewal application required by the Board by applying for renewal of Pharmacy registration on seven separate occasions in 2012, 2013, 2014, 2015, 2016, 2017, and 2018 under old ownership of Gibson Drug, Inc.

8. Respondent failed to notify the Board of changes in ownership and name for Respondent's facility that occurred in January 2012, prior to the renewals submitted by Respondent in 2012, 2013, 2014, 2015, 2016, 2017, and 2018. Respondent operated a Pharmacy registration issued to another owner, thereby attempting to transfer the Pharmacy registration to Respondent, which is a violation of K.S.A. 65-1645(e).

9. Respondent's failure to notify the Board of its change in ownership within five days and in fact not until June 14, 2019 – more than seven years after the change occurred – is a violation of K.A.R. 68-2-9 and therefore Respondent was violating the pharmacy practice act (see K.S.A. 65-1627(e)(1)).

#### ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent is deemed in violation of the Act, and pursuant to K.S.A. 65-1658 is ordered to pay to the Board a fine of \$4,000 for the violations of K.A.R. 68-2-9, K.S.A. 65-1643(a) and 65-1645(e). **Respondent has thirty (30) days from the date of this order to pay the \$4,000 fine.**

#### 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.

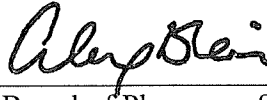
11/14/19  
Date

Alexandra Blasi  
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 14th day of November 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:

GIBSON HEALTH MART  
125 N MAIN ST  
WAKEENEY, KS 67672



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Kansas Board of Pharmacy Staff