

BEFORE THE KANSAS STATE BOARD OF PHARMACY

Filed By

NOV 26 2019

KANSAS STATE BOARD OF PHARMACY

In the Matter of)
)
Good Night Medical of Ohio, LLC)
)
Applicant No. 16-110316)

Case No. 19-534

SUMMARY ORDER OF DENIAL

NOW, on this 26th day of November 2019, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Good Night Medical of Ohio, 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 provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board enters this Summary Order of Denial 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. On August 8, 2019, the Board received Respondent's Durable Medical Equipment Provider Registration Application.
2. On August 8, 2019, the Board sent Respondent an email requesting several pieces of information that were missing from Respondent's application.
3. On September 4, 2019, the Board sent Respondent a second email requesting the information that was missing from Respondent's application.
4. On October 1, 2019, the Board mailed Respondent a final request for the information that was missing from Respondent's application.

5. To date, the Board has not received the requested documentation from Respondent.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1645(a) application for registration or permits under K.S.A. 65-1643, and amendments thereto, shall be made on a form prescribed and furnished by the Board. Applications for registration shall contain such information as may be required by the Board in accordance with the provisions of K.S.A. 65-1655, and amendments thereto, and K.S.A. 2017 Supp. 65-1655a and 65-1655b, and amendments thereto.

2. Pursuant to K.S.A. 65-1643(c), 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.

3. Pursuant to K.S.A. 65-1655(a), the Board shall require an applicant for registration to provide the following information: (1) the name, full business address and telephone number of the applicant; (2) all trade or business names used by the applicant; (3) addresses, telephone numbers, and the names of contact persons for all facilities used by the applicant for the storage, handling and distribution of prescription drugs; (4) the type of ownership or operation of the applicant; (5) the name of the owner or operator, or both; and (6) such other information as the Board deems appropriate.

4. Respondent's failure to provide the Board with the required application information is a basis to deny Respondent's application pursuant to K.S.A. 65-1645(a).

5. Pursuant to K.S.A. 65-1655(c), the Board may deny an initial application for registration or application for renewal of a registration if the Board determines that the granting of such registration would not be in the public interest.

6. Respondent's failure to provide the Board with the required application information

is a violation of K.S.A. 65-1655(a), and is a basis to deny Respondent's registration pursuant to K.S.A. 65-1655(c).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent's Durable Medical Equipment Provider Registration Application is hereby DENIED.

NOTICES

Respondent is hereby notified as follows:

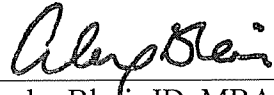
1. Respondent may request a hearing pursuant to the Kansas Administrative Procedure Act by filing a written request with the Kansas Board of Pharmacy, 800 SW Jackson, Suite 1414, Topeka, KS 66612-1231, within 15 days after service of this Order. If the outcome of the hearing is adverse to Respondent, costs of the proceedings shall be charged to Respondent.
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.

11/26/19

Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 21st 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:

GOOD NIGHT MEDICAL OF OHIO, LLC
8999 GEMINI PKWY, STE 220
COLUMBUS, OH 43240



Kansas Board of Pharmacy Staff