

May 19, 2023

Jonathan Fernandez
1011 Silver Rain Rd
Lawrence KS 66049

RE: Case No. 23-238

Attn: Mr. Fernandez:

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 \$2,500. 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

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of)	
)	Case No. 23-138
Jonathan Fernandez)	
)	
<u>License Number 1-15017</u>)	

SUMMARY ORDER

NOW, on this 19th day of May 2023, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Jonathan Fernandez (“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 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. The Board has previously issued Respondent License No. 1-15017 which entitles Respondent to function as a pharmacist in the State of Kansas (“Respondent’s Registration”).
2. On March 2, 2023, a Board inspector (the “Inspector”) conducted an in-person inspection of CVS Pharmacy #8237 located at 5001 W 135th St, in Leawood, Kansas (the “Pharmacy”). Pharmacist Erick Carter was the pharmacist on duty during the inspection.
3. From October 24, 2021 to February 11, 2023, Respondent served as the pharmacist-in-charge for the Pharmacy.
4. During the inspection, the Inspector requested copies of quarterly reports from Continuous Quality Improvement (CQI) meetings conducted in 2021 and 2022. The most recent CQI

report provided to the inspector was dated April 15, 2021. No reports were provided for the third or fourth quarters of 2021, or any quarter of 2022.

5. An inspection report detailing the CQI report findings was emailed to the Pharmacy's address of record following the inspection.

6. On March 2 and March 9, 2023, the Inspector emailed Respondent to inform him that Pharmacy staff were unsure what a CQI meeting entailed and were not familiar with CQI meeting reports, and requesting a response regarding the missing CQI reports while he was pharmacist-in-charge of the Pharmacy.

7. To date, Respondent has not provided CQI reports for the fourth quarter of 2021 or any quarter of 2022.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1658, in addition to any other penalty 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(a)(8), the Board may take action against a pharmacist upon a finding that the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act.

3. Pursuant to K.A.R. 68-7-12(a), each pharmacist-in-charge shall develop, supervise, and coordinate all pharmaceutical services carried on within the pharmacy to ensure compliance with the Kansas pharmacy act, the Kansas uniform controlled substances act, federal drug laws, and all applicable regulations.

4. Pursuant to K.A.R. 68-19-1, each pharmacy's CQI program shall meet the following minimum requirements:

- a. Meet at least once each quarter of each calendar year;
- b. have the pharmacy's PIC in attendance at each meeting; and
- c. perform the following during each meeting:
 - i. Review all incident reports generated for each reportable event associated with that pharmacy since the last quarterly meeting;
 - ii. for each incident report reviewed, establish the steps taken or to be taken to prevent a recurrence of the incident;
 - iii. review each Board newsletter published since the last quarterly meeting; and
 - iv. create a report of the meeting, including at least the following information:
 1. A list of the persons in attendance;
 2. a list of the incident reports and Board newsletters reviewed; and
 3. a description of the steps taken or to be taken to prevent recurrence of each incident reviewed.

5. During the time Respondent was pharmacist-in-charge of the Pharmacy, Respondent failed to conduct meetings and generate CQI reports for the fourth quarters of 2021 and all quarters of 2022 in violation of K.A.R. 68-19-1.

6. As pharmacist-in-charge, Respondent was responsible for ensuring the Pharmacy operated in compliance with K.A.R. 68-19-1, and failed to do so as evidenced by the lack of CQI meetings and reports during the fourth quarter of 2021 and all of 2022, which is a violation of

Respondent's regulatory responsibility under K.A.R. 68-7-12(a). Therefore, Respondent is subject to disciplinary action by the Board pursuant to K.S.A. 65-1627(a)(8) for failing to ensure compliance with the Pharmacy Act and regulations thereunder as pharmacist-in-charge of the Pharmacy.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent is ordered to pay a fine to the Board in the amount of \$2,500. Respondent has 30 days from the date of this order to pay the fine by check or money order.

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.

5/19/2023

Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 19th day of May 2023, 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:

Jonathan Fernandez
1011 Silver Rain Rd
Lawrence KS 66049



Kansas Board of Pharmacy Staff