

May 19, 2023

Kimberly Martin
16901 Oakmont St
Overland Park KS 66221

RE: Case No. 22-175

Attn: Ms. Martin:

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 \$1,250. 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. 22-175
Kimberly Martin)	
)	
<u>License Number 1-14214</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 Kimberly Martin ("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. 1-14212 which entitles Respondent to function as a pharmacist in the State of Kansas (“Respondent’s Registration”).
2. At all times relevant hereto, Respondent was employed as a pharmacist at CVS Pharmacy #8585 located at 12691 Antioch, in Overland Park, Kansas (the “Pharmacy”).
3. On February 10, 2022, the Board received a consumer complaint from a patient that accidentally injected herself with an incorrect dose of insulin alleging that she was unfamiliar with the drug and was not counseled by the pharmacist at the time of dispensing.
4. The Board’s inspector conducted an in-person investigation of the Pharmacy. During the investigation, it was noted that the patient was dispensed tuberculin syringes instead of insulin

syringes with her medication, which were later returned by the patient and replaced with insulin syringes.

5. On December 30, 2021, the Pharmacy received an electronic prescription for the patient for BD Insulin Syringe 25G X 5/8” 1 ML miscellaneous. Directions for the prescription read: “as directed subcutaneously daily 30 day(s).” MD Notes for the prescription: “ok to sub with whatever insurance covers and is in stock. Any size is ok. Please give alcohol wipes also.” The prescription was dispensed to the patient with the instructions “inject suncataneously once a day” and the final verification was completed by Respondent. The patient used the Pharmacy drive-through and was asked by the pharmacy technician on duty whether she had any questions about her prescription. Respondent reported being within earshot of this communication.

6. The patient contacted the pharmacy on December 30, 2021 indicating she injected 80 units of insulin instead of 8 units and spoke directly with Respondent.

7. Pharmacy staff generated an incident report, which indicated the date of the incident as January 17, 2022, the ingestion amount was unknown, and the quantity returned was zero. Respondent reviewed and signed the incident report.

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 the license of 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.S.A. 65-1637(g), all prescriptions shall be filled or refilled in strict conformity with any directions of the prescriber.

4. Pursuant to K.A.R. 68-2-20(b)(5), those judgmental functions that constitute the filling or refilling of a prescription shall be performed only by a licensed pharmacist or by a pharmacy student or intern under the direct supervision of a licensed pharmacist and shall consist of the following steps: personally offer to counsel each patient or the patient's agent with each new prescription dispensed, once yearly on maintenance medications, and, if the pharmacist deems appropriate, with prescription refills in accordance with subsection (c).

5. Pursuant to K.S.A. 68-7-12b(c), as soon as possible after discovery of the incident, the pharmacist shall prepare a report containing the following information:

- a. The name, address, age, and phone number of any complainant, if available;
- b. the name of each pharmacy employee and the license number of each licensee involved;
- c. the date of the incident and the date of the report;
- d. a pharmacist's description of the incident;
- e. the prescriber's name and whether or not the prescriber was contacted; and
- f. the signatures of all pharmacy employees involved in the incident.

6. Respondent's final verification of the patient's prescription allowed the medication to be dispensed without the correct (misspelled) instructions from the prescriber, in violation of K.S.A. 65-1637(g).

7. Though Respondent overheard the pharmacy technician ask the patient if she had any questions upon dispensing the medication, Respondent failed to personally offer to counsel the

patient on a new prescription, in violation of K.A.R. 68-2-20(b)(5). The patient specifically noted that she was not offered and did not receive counseling, which resulted in her confused and incorrectly dosage self-administration.

8. The incident report incorrectly identified the incident date and notification date, the ingestion amount (80 units), and the quantity returned (tuberculin syringes), in violation of K.A.R. 68-7-12b. Respondent was the pharmacist that conducted the final verification and the pharmacist on duty at the time the patient contacted the pharmacy about the incident and should have properly and immediately prepared the incident report with the correct information.

9. Therefore, Respondent is subject to action by the Board pursuant to K.S.A. 65-1627(a)(8) for violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the Board.

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 \$1,250. Respondent has 30 days from the date of this order to pay the fine by check or money order.

Furthermore, Respondent shall complete three hours of additional ACPE-approved continuing education on medication counseling and shall provide proof of completion to the Board within 60 days of the date of this Order. If Respondent is not already signed up for the NABP CPE monitor (free version), Respondent shall create an NABP CPE monitor profile and shall ensure that proof of completion of these penalty hours and all future required continuing education appears in the CPE monitor. Completion of penalty hours shall not count toward Respondent's next continuing education renewal requirement.

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:

Kimberly Martin
16901 Oakmont St
Overland Park KS 66221



Kansas Board of Pharmacy Staff