

April 7, 2023

Active Lifestyle
7800 Foster Street
Overland Park KS 66204

RE: Case No. 23-210

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.

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. 23-210
Active Lifestyle)	
)	
<u>Applicant</u>)	

SUMMARY ORDER OF DENIAL

NOW, on this 7th day of April 2023, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Active Lifestyle ("Applicant") and the application for a Kansas durable medical equipment registration.

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 January 17, 2023, the Board received Applicant’s application for registration as a durable medical equipment provider in the State of Kansas (“Applicant’s Application”).
2. Applicant’s Application included a completed and signed S-320 LLC Ownership form listing the owner of Active Lifestyle as Active Lifestyle Holdings LLC. Applicant’s Application also included a completed and signed S-320 LLC Ownership form listing Jacob Lickteig as the LLC Manager, President and 100% owner of Active Lifestyle Holdings LLC.
3. Applicant’s Application included Limited Liability Company Articles of Organization for Active Lifestyle Holdings LLC, listing Brad Heide as resident agent and organizer.

4. On February 2, 2023, February 16, 2023, and March 1, 2023, the Board sent emails to Mr. Heide requesting confirmation that the submitted Articles of Organization were accurate and were to be considered part of the application. No response was received.

5. Recent registration history with the Applicant, under the same ownership, is summarized below:

- a. In 2019 (Case 19-515), a pharmacy application for Active Lifestyle Pharmacy LLC was initially denied due to incomplete application. The registration was subsequently granted upon completion of the application (permit 2-109379).
- b. Applicant's pharmacy came for hearing before the Board on October 19, 2022. On January 4, 2023, the Board issued a Final Order against Applicant's pharmacy registration in cases 21-086 and 21-088, which became final and effective on January 23, 2023. The Final Order is incorporated herein by reference. The cases documented several statutory violations, including but not limited to unprofessional conduct, failure to complete vaccine administration reports, failure to timely report information to K-TRACS, allowing unauthorized staff to have unsupervised access to the pharmacy, and processing prescriptions without a pharmacist present. The Board imposed fines and costs totaling \$129,651, in addition to numerous terms and conditions, including a 5-year probation period, routine submission of reports, and availability for quarterly onsite inspections. The Board authorized Applicant to set up a payment plan with the Board's Executive Secretary. Applicant canceled the registration with the Board on January 17, 2023.
- c. On March 15, 2023, the Board sent a demand letter to Applicant's address of

record for the fines and costs with a due date of April 15, 2023. To date, no payment has been received and no attempt has been made to establish a payment schedule.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1627(f)(8), the Board may deny the application of any durable medical equipment provider upon a finding that the durable medical equipment provider has failed to furnish to the Board any information legally requested by the Board.

2. Pursuant to K.S.A. 65-1627(f)(9), a registration to sell durable medical equipment may be limited, conditioned, suspended, revoked, placed in a probationary status, or denied upon a finding that the registrant has violated or failed to comply with any lawful order or directive of the Board.

3. Pursuant to K.S.A. 65-1643(m), 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.

4. 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.

5. Applicant's failure to provide the Board with valid and accurate Articles of Organization is a basis to deny Applicant's Application pursuant to K.S.A. 65-1645(a).

6. Applicant's failure to comply with the recent Board order issued from cases 21-086 and 21-088 is a basis to deny the Applicant's Application pursuant to K.S.A. 65-1627(f)(9).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's 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.

4/7/2023

Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 7th day of April 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:

Active Lifestyle
7800 Foster Street
Overland Park KS 66204



Kansas Board of Pharmacy Staff