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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

August 6, 2021

Attn: Thomas Walters  
Diabetes Store, Inc  
1760 Moriah Woods Blvd, Suite 2  
Memphis TN 38117-7128

RE: Case No. 21-137

Dear Mr. Walters:

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](mailto:Pharmacy.Compliance@ks.gov).

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of	)	
	)	Case No. 21-137
Diabetes Store, Inc.	)	
	)	
<u>Applicant</u>	)	

**SUMMARY ORDER OF DENIAL**

NOW, on this 6th day of August 2021, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Diabetes Store, Inc. ("Applicant").

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 September 16, 2020, the Board received a Applicant’s application for registration as a durable medical equipment provider in the State of Kansas (“Applicant’s Application”).
2. On October 29, 2020, the Board sent Applicant an email requesting several required information items that were missing from Applicant’s application.
3. On January 4, 2021, the Board sent Applicant a second email requesting required information which was still missing from Applicant’s application, specifically the detailed ownership information for the facility.
4. On March 2, 2021, the Board sent Applicant a third email requesting information that was still missing from Applicant’s application, specifically an inspection report and the detailed

ownership information for the facility.

5. On April 26, 2021, the Board sent a final letter to Applicant's address of record requesting the above information and providing a response deadline of June 11, 2021. The letter stated: "For the BA-16 application, the Owner is considered the "applicant" for purposes of the form. If the Owner is a corporate or other legal entity, please complete and attach the appropriate Ownership Form (S-310 Partnership, S-320 LLC, or S-330 Corporate). If owned by other LLCs, partnerships, holding companies, etc., please submit information down to a person level of ownership. Total ownership percentages must equal 100% to complete your application."

6. To date, the Board has not received the required ownership information from Applicant that would serve to complete their application or any further correspondence.

#### 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. 65-1645(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.

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. The Board's application for registration as a durable medical equipment provider requires Applicant provide the detailed ownership information, forms, and supporting documentation for the facility being registered.

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

6. Applicant's failure to supply the Board with the requested documentation is a basis to deny Applicant's Application pursuant to K.S.A. 65-1627(f)(8).

### **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.

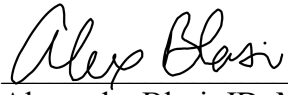
4. Within the time limits established in K.S.A. 77-613, either party may seek judicial review of a final agency order, pursuant to K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review is:

Alexandra Blasi  
Executive Secretary  
Kansas Board of Pharmacy  
800 SW Jackson, Suite 1414  
Topeka, KS 66612

IT IS SO ORDERED.

8/6/2021

Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 6th day of August 2021, 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:

Diabetes Store, Inc.  
1760 Moriah Woods Blvd, Suite 2  
Memphis TN 38117-7128

  
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Kansas Board of Pharmacy Staff