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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

November 27, 2023

Gatlin Medical Arts Pharmacy  
Attn: Terry Gatlin  
420 Country Club Rd  
Pratt KS 67124

RE: Case No. 23-233

Dear Mr. Gatlin:

Enclosed you will find a Final Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety. In addition, you are required to pay a civil fine of \$5,000 and costs of \$775. 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 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

cc:  
Stephen H. Netherton  
Hite, Fanning & Honeyman, LLP  
100 N Broadway, Suite 950  
Wichita KS 67202

## BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of

Case No. 23-233

**Gatlin Medical Arts Pharmacy**  
Kansas Registration No. 2-101672

### FINAL ORDER

#### Decision

The Kansas Board of Pharmacy (Board) has carefully considered the evidence presented and reviewed the applicable statutes, regulations and policies, and hereby affirms the May 18, 2023, Summary Order imposing a \$5,000 fine on Gatlin Medical Arts Pharmacy (GMAP).

#### Statement of Case

This matter comes on for hearing on July 27, 2023, before the Board upon the request by GMAP for a hearing to review the Summary Order imposing a \$5,000 fine on GMAP for violating K.S.A. 65-1683 and K.A.R. 68-21-2.

Appearing for the Board were: Dr. Terica Gatewood, PharmD, President; and members, Bill Walden, R.Ph; Dr. Jonathan Brunswig, PharmD; Dr. Tiffany Strohmeyer, PharmD; Dr. Erick Axcell, PharmD ; Dr. Andrew Truong, PharmD; and, Lucinda Noches Talbert, Public Member.

GMAP appeared by and through Terry and Michelle Gatlin and with counsel, Stephen Netherton.

Randy Forbes appeared as the Board's disciplinary counsel.

Alexandra Blasi (Blasi), Executive Secretary for the Board, appeared.

Loren F. Snell, Jr., Administrative Law Judge, was appointed and served as the Presiding Officer over the evidentiary hearing.

#### Evidentiary Rulings

The Board offered Exhibits 1 through 8 and 10 for admission as evidence. Exhibits offered by the Board were admitted, subject to Exhibits 4, 5, and 6 being admitted under seal due to the protected health information contained therein.

GMAP listed GMAP Exhibit 1. GMAP Exhibit 1 was not admitted as evidence.

## Findings of Fact

1. The Board previously issued GMAP Kansas Pharmacy Registration number 2-101672. [Ex. 10].

2. For the time period involved in this matter, Terry Gatlin (Mr. Gatlin) served as the pharmacist-in-charge of GMAP.

3. The Kansas Prescription Drug Monitoring Program, also known as K-TRACS, was created so that pharmacies could report prescriptions of a scheduled substance or a drug of concern to a Kansas patient. [Ex. 1].

4. K.A.R. 68-21-7 was amended and pharmacies were required to report to K-TRACS any gabapentin prescription dispensed to a Kansas patient, effective July 25, 2018. [Ex. 2].

5. The Board distributes a newsletter to pharmacy owners, pharmacists, and pharmacists-in-charge. Included within the newsletter is a section reporting on K-TRACS.

6. In June of 2018 the Board distributed a newsletter. [Ex. 7]. Under the K-TRACS section of the newsletter it was noted, "The Board recently amended K.A.R. 68-21-7 to include any product, compound, mixture, or preparation containing gabapentin as a drug of concern in Kansas. This regulation will take effect and require reporting to K-TRACS on July 25, 2018."

7. In December of 2018 the Board distributed a newsletter. [Ex. 8]. Under the K-TRACS section of the newsletter was an article on drugs of concern and it was noted, "Effective July 2018, gabapentin was added to the list [of drugs of concern] and must be reported to K-TRACS."

8. Blasi testified that the newsletters are published on the Board's website to provide public access.

9. On February 7, 2023, the Board received a complaint against GMAP that indicated a Kansas patient, A.B., had received pregabalin and gabapentin from GMAP pursuant to valid prescriptions. It was alleged that the pregabalin prescription appeared on K-TRACS for the patient, but the gabapentin did not.

10. An investigation was opened by the Board and assigned to Jason Syring (Syring), Pharmacist and licensed Pharmacy Inspector.

11. Syring investigates complaints received by the Board.

12. Syring completed an investigation of GMAP. [Ex. 4].

13. On March 22, 2023, Syring spoke to Mr. Gatlin during an in-person inspection of GMAP conducted as part of the investigation. Mr. Gatlin reportedly stated he was unaware of the requirement to report dispensed gabapentin prescriptions to K-TRACS as a drug of concern.

14. On May 1, 2023, the Board requested a K-TRACS report for dispensation records for GMAP for the drug gabapentin dispensed during the period from January 1, 2021, through May 1, 2023. [Ex. 6]. The report indicated that the first dispensation date for gabapentin, by GMAP, was on January 19, 2023, with no dispensed dates for gabapentin prior to January 19, 2023, and the reports were not made until on or after March 21, 2023.

15. The Board also received a report from K-TRACS of the dispenser activity for GMAP specific to patient A.B., and all gabapentin reported as having been dispensed to A.B. between January 1, 2022, and May 1, 2023. [Ex. 6]. No reports of gabapentin dispensed to A.B. were found in the K-TRACS records.

16. Syring obtained a GMAP dispensing history from Mr. Gatlin for A.B. for the period from January 1, 2016, through March 30, 2023. [Ex. 5]. According to the dispensing history, A.B. started receiving gabapentin on August 6, 2018, and the gabapentin was last dispensed on January 6, 2023.<sup>1</sup>

17. Mr. Gatlin testified he had been licensed as a pharmacist for thirty-three (33) years.

18. Mr. Gatlin acknowledged he had received the newsletters distributed by the Board and was aware gabapentin was a drug of concern and when it was dispensed it had to be reported to K-TRACS. Mr. Gatlin testified he thought his software vendor, Computer Rx, was submitting the information to K-TRACS. Mr. Gatlin testified he was never advised he would need to contact Computer Rx to advise them to update the drugs being reported to K-TRACS.

19. Mr. Gatlin testified that he was advised on March 21, 2023, that he had to mark gabapentin, and other drugs identified to be reported, so that when it was dispensed the information would be reported to K-TRACS.

### **Applicable Statutes, Regulations and Policies**

“The board may deny an application or renewal, limit, condition, revoke, suspend or place in a probationary status the registration of any pharmacy upon a finding that: (9) such pharmacy has been operated in such manner that the violations of the provisions of the prescription monitoring program act of the state of Kansas or any rule and regulation of the board have occurred in connection therewith.”<sup>2</sup>

“The board shall establish and maintain a prescription monitoring program for the monitoring of scheduled substances and drugs of concern dispensed in this state or dispensed to an address in this state.”<sup>3</sup>

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<sup>1</sup> It was noted that A.B.’s doctor had discontinued the gabapentin while A.B. was in the hospital on or after February 6, 2023.

<sup>2</sup> K.S.A. 65-1627(e).

<sup>3</sup> K.S.A. 65-1683(a).

“Each dispenser shall submit to the board by electronic means information required by the board regarding each prescription dispensed for a substance included under [K.S.A. 65-1683] subsection (a).”<sup>4</sup>

“Except as specified in subsections (d) and (e), each dispenser shall file a report with the board for each scheduled substance and drug of concern sold in Kansas or to an address in Kansas. This report shall be submitted by the end of the next business day from the day that the drug is sold.”<sup>5</sup>

“Each of the following shall be classified as a drug of concern: (5) any product, compound, mixture, or preparation that contains gabapentin.”<sup>6</sup>

### Decision

The Board considered the information provided and concluded GMAP violated K.S.A. 65-1683 and K.A.R. 68-21-2 by failing to report to K-TRACS any gabapentin prescriptions dispensed. While Mr. Gatlin testified he was unaware the software was not making the report, Mr. Gatlin also acknowledged he was aware gabapentin had to be reported and it was his responsibility, as the pharmacist-in-charge, to ensure the pharmacy was complying with the statutes and regulations. Failure to comply with the applicable statutes and regulations constitutes a violation of the Kansas Pharmacy Act.

The Board voted 5-1 to affirm the Summary Order imposing a \$5,000 fine on Gatlin Medical Arts Pharmacy for violating K.S.A. 65-1683 and K.A.R. 68-21-2.<sup>7</sup>

Because Gatlin Medical Arts Pharmacy did not prevail, it is also ordered to pay the costs of the hearing in the amount of \$775.<sup>8</sup>

Nov 22, 2023

Date

  
Terica Gatewood (Nov 22, 2023 20:02 CST)

Dr. Terica Gatewood, PharmD,  
President  
Kansas Board of Pharmacy

<sup>4</sup> K.S.A. 65-1683(b).

<sup>5</sup> K.A.R. 68-21-2(a).

<sup>6</sup> K.A.R. 68-21-7(a).

<sup>7</sup> Dr. Tiffany Strohmeyer, PharmD, recused herself from the deliberations and the decision.

<sup>8</sup> K.S.A. 65-1627h.

## Notices

1. This is a Final Order and becomes effective upon service.
2. **Within fifteen (15) days** after service of the Final Agency Order, any party may file a Petition for Reconsideration.<sup>9</sup>
3. Either party to this agency proceeding may seek judicial review of the Final Order by filing a timely petition in the District Court.<sup>10</sup> Reconsideration of the Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed **within thirty (30) days** following service of the Final Order.
4. A copy of any petition for judicial review must be served upon the Kansas Board of Pharmacy. The agency officer designated to receive service of a petition for judicial review is:

Alexandra Blasi, Executive Secretary  
Kansas State Board of Pharmacy  
800 SW Jackson #1414  
Topeka, KS 66612-1244

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<sup>9</sup> K.S.A. 77-529.

<sup>10</sup> K.S.A. 77-613.

**Certificate of Service**

On November 27, 2023, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Gatlin Medical Arts Pharmacy  
420 Country Club Rd.  
Pratt, KS 67124

Randall J. Forbes  
Frieden & Forbes, LLP  
1414 SW Ashworth Place, Ste 201  
Topeka, KS 66604

Stephen H. Netherton  
Hite, Fanning & Honeyman, LLP  
100N. Broadway, Suite 950  
Wichita, KS 67202

and I further certify that I caused a copy of the foregoing to be hand-delivered to:

Alexandra Blasi  
Executive Secretary  
Kansas State Board of Pharmacy  
800 SW Jackson #1414  
Topeka, KS 66612-1244

  
\_\_\_\_\_  
Staff Person  
Kansas Board of Pharmacy