

November 16, 2020

KEX RX PHARMACY  
807 MAIN ST  
ATCHISON, KS 66002

RE: Case No. 20-285

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. In addition, a civil fine has been assessed totaling \$1960. 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](mailto:Pharmacy.Compliance@ks.gov).

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of )  
 )  
Kex Rx Pharmacy )  
 )  
Registration No. 2-10392 )

Case No. 20-285

**SUMMARY ORDER**

NOW, on this 17th day of November 2020, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Kex Rx Pharmacy (“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 Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board’s Executive Secretary enters this Summary Order in the above-captioned matter. After reviewing the investigation 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 to Respondent the Pharmacy Registration Permit No. of 2-10392 (“Respondent’s Registration”), which entitles Respondent to function as a Pharmacy in the State of Kansas.
2. Effective July 29, 2020, Respondent’s Pharmacist-in-Charge (“PIC”) served out his last day as such.
3. On October 15, 2020, the Board received from Respondent a Change in PIC Form BA-50 (“BA-50”), notifying the Board of Respondent’s newly designated PIC, whose first day had not been served until October 3, 2020. Respondent had requested no waiver of the 30-day deadline during which to designate a new PIC.

4. On or about November 2, 2020, the Board processed the PIC change.

5. On February 15, 2018, Respondent was issued by the Board a Summary Order in Case No. 18-041, disciplining Respondent's Registration for failure to notify the Board - within 30 days following the termination of Respondent's PIC - of a newly designated PIC. This failure had been deemed a violation of K.A.R. 68-1-2a(b), and the Order became final and effective on March 2, 2018.

#### CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1658, 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.A.R. 68-1-2a(b), each pharmacy required to have a PIC that operates for more than 30 days without a designated PIC shall be deemed to be in violation of K.S.A. 65-1627(e).

3. Since Respondent's PIC ceased to serve in such role effective July 29, 2020, Respondent had 30 days, or until August 28, 2020, to notify the Board of a newly designated PIC.

4. Respondent failed to submit the BA-50 designating a new PIC to the Board until October 15, 2020, which was forty-eight (48) days beyond the 30-day window for Respondent to designate a new PIC.

5. Additionally, according to Respondent's belated BA-50, Respondent's PIC position was vacant until October 3, 2020, showing that Respondent had operated for more than 30 days with no PIC in place, and with no waiver having had been approved by the Board for extension of the deadline by which to designate a new PIC.

6. Respondent violated K.A.R. 68-1-2a(b) when it failed to provide to the Board within 30 days of the vacation of its PIC position a completed BA-50, designating a new PIC.

7. This is Respondent's second violation of K.A.R. 68-1-2a(b).

### ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent is ordered to pay a fine to the Board. A violation of K.A.R. 68-1-2a(b) warrants a base fine of \$1,000 plus \$20.00 per day that Respondent is in violation of the regulation, not to exceed \$5,000. Because Respondent provided designation notice to the Board forty-eight (48) days past the deadline, the total fine is \$1960. Respondent has 30 days from the date of this order to pay the fine.

### NOTICES

The Respondent is hereby notified as follows:

1. The 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 fifteen (15) days after service of this order.

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 fifteen (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 said statute. 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

**SUMMARY ORDER**

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IT IS SO ORDERED.

11/17/2020

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Date

*Alex Blasi*

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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 17th day of November 2020, 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:

KEX RX PHARMACY  
807 MAIN ST  
ATCHISON, KS 66002

*Alex Blas*

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Kansas Board of Pharmacy Staff