

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of )  
Kmart )  
Registration No. 10-32696 )

Case No. 16-089

Filed By  
JUL 20 2016  
KANSAS BOARD OF PHARMACY

**SUMMARY ORDER**

NOW on this 20 day of July, 2016, comes before the Kansas Board of Pharmacy (the "Board"), through its Investigation Member, the matter of KMart ("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 Investigation Member enters this Summary Order in the above-captioned matter. After reviewing the investigation materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order:

**FINDINGS OF FACT**

1. The Board has previously issued Respondent Registration No. 2-13170 which entitles Respondent to function as a pharmacy in the State of Kansas ("Respondent's Registration").

2. On or about March 21, 2016, the Board office received a notification of a pharmacist in charge ("PIC") change from former PIC Kenneth Holder that his employment as PIC had been terminated on that day.

3. Respondent had until April 21, 2016 to employ a new PIC. However, by that date, no PIC was in place.

4. On May 2, 2016, Respondent hired current PIC Paul Vossen.

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5. On May 20, 2016, an inspector for the Board visited the pharmacy and informed Mr. Vossen that no paperwork had been filed with the Board to reflect the PIC change.

6. On or about May 25, 2016, the Board received Respondent's written application for a Resident Pharmacy Registration for Change of PIC.

#### CONCLUSIONS OF LAW

7. 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.

8. Pursuant to K.A.R. 68-1-2a(b), each registrant 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).

9. Since Respondent indicated that the termination of PIC Kenneth Holder was effective on March 21, 2016, Respondent had 30 days to have a designated PIC, or until April 21, 2016.

10. Respondent failed to submit the complete Change of PIC application to the Board until May 25, 2016, which was 33 days beyond the 30-day window for designating a new PIC.

11. Respondent violated K.A.R. 68-1-2a(b) when it failed to provide a completed application for a designated PIC to the Board within 30 days.

#### 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 \$1,000.00. Every day that Respondent is in violation of the regulation, the fine accrues \$20.00. Because

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Respondent was 33 days late, the fine accrued \$660.00. Respondent has 30 days from the date of this order to pay the full \$1,660.00.

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. 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.

3. 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

IT IS SO ORDERED.

7-19-2016

Date



Michael Lonergan, R. Ph.  
Investigation Member  
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 30 day of July, 2016, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order, properly addressed to the following:

Sarah Dobryznski  
Kmart #3358  
3333 Beverly Rd.  
Hoffman Estates, IL 60179

and the original hand delivered to:

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



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Kansas Board of Pharmacy Staff