

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Marian Pharmaceuticals)
)
Registration No. 22-106317)

Case No. 18-548

SUMMARY ORDER

NOW on this 2 day of August, 2018 comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Marian Pharmaceuticals (22-106317) ("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, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. The Board has previously issued Respondent Registration No. 22-103398 which entitles Respondent to operate as a non-resident pharmacy in the State of Kansas ("Respondent's Registration").
2. On January 23, 2018, ownership of Respondent's facility was transferred from Marian Pharmaceuticals to Marian Respiratory Care Inc., effective immediately.
3. On June 1, 2018, the Board received from Respondent a Form BA-22 Non-Resident Pharmacy Registration Application, notifying of the change in ownership from Marian

Pharmaceuticals to Marian Respiratory Care Inc., effective January 23, 2018, and applying for a new non-resident pharmacy registration under the new ownership.

CONCLUSIONS OF LAW

4. 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.

5. Pursuant to K.A.R. 68-2-9, each registrant shall notify the executive secretary of the board in writing of any change in majority ownership of the operation for which the registration was issued within five days after the date the change in ownership becomes effective.

6. Respondent had five days to notify the Board of the change in ownership, or until January 28, 2018.

7. Respondent failed to notify the Board until June 1, 2018 which was 124 days beyond the five-day window for notification to the Board.

8. Respondent violated K.A.R. 68-2-9 when failing to notify the Board of a change in majority ownership within five days.

ORDER

The Board finds and concludes that Respondent's conduct, as described above, violates the Act and such conduct warrants the imposition of a fine pursuant to K.S.A. 65-1658, in the amount of \$500.00. Respondent has 30 days from the date of this order to pay the full \$500.00.

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. 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

IT IS SO ORDERED.

8/2/18

Date



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

Matter of Marian Pharmaceuticals, No. 18-548 (Kan. Bd. of Pharmacy)

SUMMARY ORDER

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CERTIFICATE OF SERVICE

I hereby certify that I did, on the 2 day of August, 2018 deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order, properly addressed to the following:

Marian Pharmaceuticals
28691 US HWY 98, Ste D1
Daphne, AL 36526

and the original hand delivered to:

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



Kansas Board of Pharmacy Staff