

October 11, 2023

Pharmerica
1041 Elkton Dr, Suite A
Colorado Springs CO 80907-3539

RE: Case No. 23-408

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 \$1,200. 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.

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
Pharmerica)
Registration No. 22-02790)

Case No. 23-408

SUMMARY ORDER OF SUSPENSION

NOW on this 11th day of October, 2023 comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Pharmerica (“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. 22-02790 which entitles Respondent to function as a Non-Resident Pharmacy in the State of Kansas (“Respondent’s Registration”) and is located at 1041 Elkton Drive, Suite A, in Colorado Springs, Colorado.
2. Respondent was previously issued an exemption from reporting to K-TRACS, which expired on August 31, 2023.
3. On the following dates, the Board emailed Respondent’s pharmacist-in-charge requesting renewal of the K-TRACS reporting exemption: July 18, 2023; August 8, 2023; August 23, 2023; and August 31, 2023.

4. On September 5, 2023, the Board sent a letter to Respondent's mailing address of record notifying Respondent of their expired K-TRACS reporting exemption and requesting Respondent either start reporting to K-TRACS or provide an updated K-TRACS reporting exemption to the Board by September 20, 2023.

5. On September 22, 2023, the Board sent a final letter to Respondent's mailing address of record requesting the above action or response.

6. To date, the Board has not received any K-TRACS reporting, K-TRACS reporting exemption, or any further correspondence from Respondent.

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.S.A. 65-1657(f), the Board may limit, condition, revoke, suspend or place in a probationary status a registration on any ground that would authorize the Board to take action against the registration of a pharmacy under K.S.A. 65-1627.

3. Pursuant to K.S.A. 65-1627(e)(1), the Board may limit, condition, revoke, suspend or place in a probationary status the registration of a pharmacy upon a finding that such pharmacy has been operated in such manner that violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the Board have occurred in connection therewith.

4. Pursuant to K.S.A. 65-1627(e)(9), the Board may limit, condition, revoke, suspend or place in a probationary status the registration of a pharmacy upon a finding that 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.

5. Pursuant to K.S.A. 65-1627(e)(10), the Board may limit, condition, revoke, suspend or place in a probationary status the registration of a pharmacy upon a finding that the pharmacy has failed to furnish the Board, its investigators, or its representatives any information legally requested by the Board.

6. Pursuant to K.S.A. 65-1683, each pharmacy shall submit to the Board by electronic means information required by the Board regarding each prescription dispensed for a scheduled substance or drug of concern.

7. Pursuant to K.A.R. 68-7-12a, each nonresident pharmacy shall meet the requirements of this regulation to be and remain registered in Kansas by the Board. The pharmacist-in-charge shall timely respond to any lawful request for information from the Board.

8. Pursuant to K.A.R. 68-21-2, each pharmacy 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. A pharmacy that meets certain conditions may submit a written request to the Board for an exemption from reporting, which shall expire annually on August 31.

9. By failing to have its pharmacist-in-charge respond to the Board after a lawful request for information, Respondent violated K.A.R. 68-7-12a, which is a basis to suspend Respondent's Registration pursuant to K.S.A. 65-1627(e)(1) and K.S.A. 65-1657(f).

10. By failing to report to K-TRACS or file an exemption with the Board after August 31, 2023, Respondent violated K.S.A. 65-1683 and K.A.R. 68-21-2, which is a basis to suspend Respondent's Registration pursuant to K.S.A. 65-1627(e)(9) and K.S.A. 65-1657(f).

11. Respondent failed, after multiple emails and letters from the Board, to provide the lawfully requested information. Respondent's failure to supply the Board with the requested K-TRACS data or exemption from reporting is a basis to suspend Respondent's Registration pursuant to K.S.A. 65-1627(e)(10) and 65-1657(f).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent's Registration is hereby SUSPENDED until Respondent begins reporting to K-TRACS or provides a completed exemption to the Board.

Furthermore, Respondent is ordered to pay a fine to the Board in the amount of \$1,200. Respondent has 30 days from the date of this order to pay the fine by check or money order.

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.

10/11/2023

Date

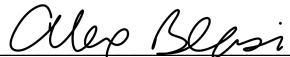
Alex Blasi

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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 11th day of October, 2023 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:

Pharmerica
1041 Elkton Dr, Suite A
Colorado Springs CO 80907-3539



Kansas Board of Pharmacy Staff