

BEFORE THE KANSAS BOARD OF PHARMACY

In The Matter Of

SURGERY CENTER OF OLATHE, LLC
LICENSE NO. 2-09895

)
)
) Case No. 08-39
)
)

AGENCY ORDER

SURGERY CENTER OF OLATHE, LLC was licensed as a pharmacy in the State of Kansas by reason of the Kansas Board of Pharmacy (the "Board") having issued license no. 2-09895. At all times relevant hereto, the Respondent has held a current license to operate a pharmacy in the State of Kansas.

The Board has received certain information, has investigated and has determined that there are reasonable grounds to believe that the Respondent has operated in a manner that violates the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.*

After considering the foregoing, the Board's Investigation Member, in accordance with the authority granted to her by the Board, enters the following agency order.

I. FINDINGS OF FACT

For purposes of this order, the Board's Investigation Member makes the following findings of fact:

1. The Board has previously issued Respondent license number 2-09895 which entitled it to function as a pharmacy in the State of Kansas ("Respondent's Registration").

2. That on March 6, 2008 a routine inspection was conducted whereby it was discovered that the pharmacy was operating without a pharmacist in charge. That the previous PIC had notified the Board office that she was no longer the PIC effective December 31, 2007. The Board office had no record of an application for a Pharmacist in Charge change for the licensee as of the date of the inspection.

II. CONCLUSIONS OF LAW AND FACT

For purposes of this order, the Board's Investigation member makes the following conclusions of law and fact:

1. That the Respondent was originally issued a license number on October 8, 2003 pursuant to K.S.A. 65-1643.
2. That pursuant to K.A.R. 68-1-2a(b) each pharmacy or registrant that operates for more than 30 days without a designated pharmacist in charge is in violation of K.S.A. 65-1627(e).
3. That K.S.A. 65-1627 (e) states that the Board may revoke, suspend, place in a probationary status or deny a renewal of the registration of the pharmacy upon a finding that (1) such pharmacy has 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.

ORDER

Based upon the foregoing findings and conclusions, Respondent is hereby assessed a fine in the amount of One Thousand Seven Hundred Twenty Dollars

(\$1,720) for operating a pharmacy for a period in excess of 30 days without a pharmacist in charge. Said fine is due and payable to the Kansas Board of Pharmacy within 30 days of receipt of this Order.

II. NOTICES

The Respondent is hereby notified as follows:

1. The Respondent may request a hearing pursuant to the Kansas State Administrative Procedure Act by filing a written request with the Kansas Board of Pharmacy, 900 SW Jackson, Ste. 560, Topeka, Kansas 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:

Debra Billingsley
Executive Director
Kansas Board of Pharmacy
900 SW Jackson, Ste. 560
Topeka, KS 66612-1231
Phone: 785-296-4056
Fax: 785-296-4056

IT IS SO ORDERED.

4/11/08
Date

Shirley Arck
Shirley Arck, Pharm.D.
Investigation Member
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 15 day of April, 2008,
deposit in the United States mail, postage prepaid, a copy of the foregoing
AGENCY ORDER, properly addressed to the following:

Olathe Medical Center, Inc.
21080 W. 151st St.
Olathe, KS 66061

David Tate, Registered Agent
21080 West 151st Street
Olathe, KS 66061

Debra Billingsley
Debra Billingsley
Executive Director
Kansas Board of Pharmacy
900 SW Jackson, Ste. 560
Topeka, KS 66612-1231