

May 25, 2023

Kristen Kieffer
9655 Maroon Circle
Englewood CO 80112

RE: Case No. 23-253
Zynex Medical, Inc.

Dear Ms. Kieffer:

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 \$1,000. 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 STATE BOARD OF PHARMACY

In the Matter of)	
)	Case No. 23-253
Zynex Medical, Inc.)	
)	
<u>Registration Number 16-102082</u>)	

SUMMARY ORDER

NOW, on this 25th day of May 2023, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Zynex Medical, Inc. ("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 provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board enters this Summary Order in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, the Board makes the following findings, conclusions, and order:

FINDINGS OF FACT

1. The Board had previously issued Respondent Registration No. 16-102082 which entitles Respondent to operate as a durable medical equipment provider in the State of Kansas.
2. On April 1, 2021, the address of the Respondent’s facility was changed from 9555 Maroon Circle, Englewood CO 80112 (“Old Address”) to 9655 Maroon Circle, Englewood CO 80112 (“New Address”).
3. On May 10, 2021, the Board received Respondent’s renewal application for Respondent’s Registration at its Old Address, which was approved on May 10, 2021. Respondent certified that everything was “true, correct, and complete, to the best of [Respondent’s] knowledge.”
4. On May 23, 2022, the Board received Respondent’s renewal application for

Respondent's Registration at its Old Address, which was approved on May 23, 2022. Respondent certified that everything was "true, correct, and complete, to the best of [Respondent's] knowledge."

5. On May 9, 2023, the Board received Respondent's form BA-16 durable medical equipment Application, notifying of the change in address to the New Address, effective April 1, 2021, and applying for a new durable medical equipment registration at the New Address, which was approved on May 23, 2023.

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. 65-1627(f)(6), the Board may take action against the application of any durable medical equipment provider upon a finding that the applicant has violated the pharmacy act of the state of Kansas, or any regulation adopted by the Board.

3. Pursuant to K.S.A. 68-14-4(d), each registrant must submit change in address information within 30 days after any change in that information.

4. Respondent's failure to submit the complete change of address application to the Board until May 9, 2023 – over 2 years past the May 1, 2021 deadline - is a violation of K.S.A. 68-14-4(d) and a basis to discipline Respondent's Registration pursuant to K.S.A. 65-1627(f)(6).

5. Pursuant to K.S.A. 65-1643(m), it shall be unlawful for any person to sell or lease or offer for sale or lease durable medical equipment without first obtaining a registration from the Board.

6. Pursuant to K.S.A. 65-1645(f), registrations issued pursuant to K.S.A. 65-1643 shall not be transferrable and shall expire every year.

7. Pursuant to K.S.A. 65-1627(f)(1), the Board may take action against a registration of a durable medical equipment provider that has renewed a registration by false or fraudulent means, including misrepresentation of a material fact or falsification of any application.

8. By continuing to operate as a durable medical equipment provider at the New Address using the registration issued to the Old Address, Respondent violated K.S.A. 65-1643(m).

9. By renewing Respondent's Registration in both 2021 and 2022 using the Old Address, Respondent materially misrepresented the physical and operational location of the facility on two renewal applications, which were approved by the Board, and is a basis to discipline Respondent's Registration pursuant to K.S.A. 65-1627(f)(1).

ORDER

The Board finds and concludes that Respondent's conduct, as described above, violates the Act. Such conduct warrants the imposition of a fine pursuant to K.S.A. 65-1658, in the amount of \$1000. Respondent has 30 days from the date of this order to pay the fine and the registration shall be issued upon receipt.

NOTICES

Respondent is hereby notified as follows:

1. 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 15 days after service of this Order. If the outcome of the hearing is adverse to Respondent, costs of the proceedings shall be charged to Respondent.

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 15 days after entry of a final agency order, either party may file a petition for

reconsideration pursuant to K.S.A. 77-529.

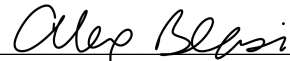
4. Within the time limits established in K.S.A. 77-613, either party may seek judicial review of a final agency order, pursuant to K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review is:

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

IT IS SO ORDERED.

5/25/2023

Date

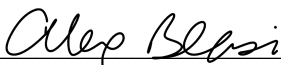


Alexandra Blasi, JD, MBA
Executive Secretary
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 25th day of May 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:

Kristen Kieffer
Zynex Medical, Inc.
9655 Maroon Circle
Englewood CO 80112



Kansas Board of Pharmacy Staff