

May 10, 2024

Popkess Pharmacy Inc
165 Kaiser Way
Dewey OK 74029

RE: Case No. 24-205

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.

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. 24-205
Popkess Pharmacy Inc)	
)	
<u>Applicant</u>)	

SUMMARY ORDER OF DENIAL

NOW, on this 10th day of May, 2024, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Popkess Pharmacy Inc ("Applicant").

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 of Denial 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. On October 2, 2023, the Board received Applicant’s application for registration as a non-resident pharmacy in the State of Kansas (“Applicant’s Application”).
2. On October 2, 2023, the Board sent Applicant an email requesting the following required items missing from Applicant’s application:
 - a. On page 1 of the application, you listed Ashley Clark as the owner, but indicated that the owner is a corporation. Please submit an updated page 1 with the corporation as the name of the owner and its information in that section.
 - b. On page 3 of the application, question 5 was answered “no”. Please review and correct, or provide supporting documentation.

- c. A list of other states in which registered, with permit numbers.
- d. A phone number which is toll-free.
- e. S-310, S-320 and/or S-330 ownership form(s)
- f. Completed S-350 Nonresident Information forms
- g. A legible copy of the inspection (the copy is very very light and cannot be interpreted)
- h. Ownership form supporting documentation such as Articles of Incorporation/Formation

3. On October 30, 2023, the Board sent Applicant a second email requesting the above information. No response was received.

4. On November 29, 2023, the Board sent Applicant a third email requesting the above information. No response was received.

5. On December 27, 2023, the Board sent a final email to Applicant requesting the missing items and providing a response deadline of January 30, 2024.

6. To date, the Board has not received the required application documents or any further correspondence from Applicant since the initial application.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1657(f), the Board may deny the application for registration of a non-resident pharmacy on any ground that would authorize the Board to take action against the registration of a pharmacy under K.S.A. 65-1627.

2. Pursuant to K.S.A. 65-1627(e)(1), the Board may deny the application for registration of a pharmacy upon a finding that such pharmacy has been operated in a manner that violates the provisions of the Pharmacy Act of the State of Kansas or regulations of the Board.

3. Pursuant to K.S.A. 65-1627(e)(10), the Board may deny the application for 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.

4. Pursuant to K.S.A. 65-1657(a) applications for a nonresident pharmacy registration shall be made on a form prescribed and furnished by the Board.

5. Pursuant to K.S.A. 65-1657(b), the Board shall require an applicant for registration as a nonresident pharmacy or an applicant for renewal of such a registration to provide the following information: (1) the person(s) applying for the registration, the location of the pharmacy from which the prescription drugs will be dispensed, the names and titles of all principal owners and corporate officers, if any, and the names of all pharmacists dispensing prescription drugs to residents of Kansas; (2) pharmacy registration for resident state; (3) records of prescription drugs dispensed to Kansas patients; (4) all information required by the Board; (5) pharmacy hours that permit timely dispensing to patients; (6) toll-free phone number; and (7) such other information as the Board may reasonably request.

6. The Board's application for registration as a nonresident pharmacy requires Applicant provide the most recent inspection report conducted within the previous 18-month period by the state of residence or the National Association of Boards of Pharmacy, detailed ownership information, information concerning any disciplinary history for the facility, proof of valid registration in the state of residence, information concerning any permits held in other states, etc.

7. Applicant failed to provide the following in conjunction with Applicant's Application:

- a. On page 1 of the application, you listed Ashley Clark as the owner, but indicated that the owner is a corporation. Please submit an updated page 1 with the

corporation as the name of the owner and its information in that section.

- b. On page 3 of the application, question 5 was answered “no”. Please review and correct, or provide supporting documentation.
- c. A list of other states in which registered, with permit numbers.
- d. A phone number which is toll-free.
- e. S-310, S-320 and/or S-330 ownership form(s)
- f. Completed S-350 Nonresident Information forms
- g. A legible copy of the inspection (the copy is very very light and cannot be interpreted)
- h. Ownership form supporting documentation such as Articles of Incorporation/Formation

8. Applicant’s failure to provide the Board with the required application information is a basis to deny Applicant’s Application pursuant to K.S.A. 65-1627(e)(1) and 65-1657(a) and (b).

9. Applicant failed, after multiple emails from the Board, to provide the lawfully requested application information.

10. Applicant’s failure to supply the Board with the requested documentation is a basis to deny Applicant’s Application pursuant to K.S.A. 65-1627(e)(10).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant’s Application is hereby DENIED.

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.

5/10/2024

Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 10th day of May, 2024, 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:

Popkess Pharmacy Inc
165 Kaiser Way
Dewey OK 74029



Kansas Board of Pharmacy Staff