

EFFECTIVE AS A FINAL ORDER

DATE: 8.23.22

FILED

AUG 04 2022



**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

KS State Board of Healing Arts

In the Matter of

**WebEyeCare, Inc.
Kansas Registration No. 75-00011**

Docket No. 22-HA00046

FIRST AMENDED SUMMARY ORDER

NOW ON THIS 4th day of August 2022, This matter comes before Susan B. Gile, Acting Executive Director, Kansas State Board of Healing Arts (“Board”), in summary proceedings pursuant to K.S.A. 77-537. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, this First Amended Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within fifteen (15) days of service.

Upon review of the agency record and being duly advised in the premises, the following finding of fact, conclusions of law, and order are made for and on behalf of the Board:

Findings of Fact

1. A Summary Order was filed with the Kansas State Board of Healing Arts in this case on June 30, 2022. This document is the First Amended Summary Order.
2. On July 15, 2022, Licensee requested a hearing through counsel Kelli Stevens.
3. This First Amended Summary Order is a settlement in lieu of a hearing.
4. WebEyeCare, Inc. (“Applicant”) is an entity based in Bristol, Pennsylvania, and which distributes contact lenses in Kansas.

WebEyeCare, Inc.
Registration No: 75-00011
First Amended Summary Order

5. Applicant's last mailing address known to the Board is: **CONFIDENTIAL**
CONFIDENTIAL Applicant's last email address known to the Board is:
CONFIDENTIAL

6. Applicant was first issued registration No. 75-00011 to dispense contact lenses to residents in Kansas on or about November 12, 2010.

7. Applicant's registration to dispense contact lenses in Kansas was cancelled for failure to renew on May 11, 2021.

8. Applicant applied to reinstate its registration to dispense contact lenses in Kansas on or about April 7, 2022. (Bd. Ex. 1 – Application).

9. In that application a representative of Applicant disclosed Applicant's failure to renew its registration in 2021, and that Applicant nevertheless continued to dispense contact lenses without having first registered with the Board as required by Kansas statute, and without paying the required registration fee. *Id.*

Applicable Law

10. K.S.A. 65-4967(a) of the Kansas Patient's Contact Lens Prescription Release Act (K.S.A. 65-4965, *et seq.*) defines "a person dispensing contact lenses" as:

a person or entity not licensed under K.S.A. 65-1505, and amendments thereto, or licensed to practice medicine and surgery in Kansas who mails or delivers, using commercial courier or overnight or other delivery services, contact lenses to patients in Kansas pursuant to a contact lens prescription which such person or entity did not determine.

11. K.S.A. 65-4967(b) of the Kansas Patient's Contact Lens Prescription Release Act states in pertinent part: "No person dispensing contact lenses...may dispense contact lenses to

Kansas residents unless such person...is registered under this section and pays the annual registration fee set up by the state board of healing arts.”

12. K.S.A. 65-4967(b)(1) of the Kansas Patient’s Contact Lens Prescription Release Act provides in pertinent part:

(b)(1) Upon a finding of any violation of the patient’s contact lens prescription release act, in lieu of or in addition to any other action . . . the state board of healing arts for persons subject to the provisions of K.S.A. 65-4967 and amendments thereto, registered under K.S.A. 65-4967, and amendments thereto . . . may assess a civil fine not in excess of \$10,000 against such person dispensing contact lens under this act.

Conclusions of Law

13. The Board has jurisdiction over Applicant as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

14. The Board finds Applicant is “a person dispensing contact lenses” as defined by K.S.A. 65-4967(a), and is therefore subject to the requirements of the Kansas Contact Lens Prescription Release Act, K.S.A. 65-4965, *et seq.*

15. The Board finds Applicant violated K.S.A. 65-4967(b) of the Kansas Contact Lens Prescription Release Act in that Applicant dispensed contact lenses to Kansas residents without meeting the requirements of the Kansas Patient’s Contact Lens Prescription Release Act from approximately May 12, 2021 to present, without being registered with the Kansas State Board of Healing Arts or paying the annual registration fee.

16. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, in accordance with provisions set forth in K.S.A. 77-537(a) in that the use of summary proceedings does not violate any provision of law and the

protection of the public interest does not require the Board to give notice and an opportunity to participate to persons other than Applicant.

IT IS HEREBY ORDERED that Applicant is hereby assessed a **CIVIL FINE** in the amount of one thousand and five hundred dollars (**\$1,500**) for violations of the Kansas Contact Lens Prescription Release Act. Such fine shall be paid, in full, within thirty (30) days of this Order becoming a Final Order. Such fine shall be paid to the "Kansas State Board of Healing Arts". All monetary payments, which shall be in the form of check or money order, relating to this First Amended Summary Order shall be mailed to the Board, certified, and addressed to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suit A,
Topeka, Kansas 66612.
KSBHA_ComplianceCoordinator@ks.gov

IT IS FURTHER ORDERED that, upon satisfaction of the requirements imposed by this First Amended Summary Order, Applicant's application for the reinstatement of its registration to dispense contact lens to Kansas residents shall be **GRANTED**.

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 4th day of August, 2022.

KANSAS STATE BOARD OF HEALING ARTS

Susan Gile

Susan B. Gile,
Acting Executive Director

FINAL ORDER NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Susan Gile, Acting Executive Director, Kansas Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true copy of the foregoing **FINAL ORDER** was served this 23rd day of August 2022 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

WebEyeCare Inc.
CONFIDENTIAL

Applicant

Kelli Stevens
Forbes Law Group, LLC
6900 College Blvd, Suite 840
Overland Park, KS 66211
kstevens@forbeslawgroup.com
Attorney for Applicant

And a copy was hand-delivered to:

Lyddie Hombaker, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Licensing Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And the original was filed with the office of the Acting Executive Director.

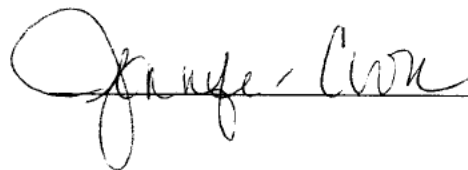


EXHIBIT 1

Application for Registration to Dispense
Contact Lenses by Mail



APPLICATION FOR REGISTRATION TO DISPENSE CONTACT LENSES BY MAIL

Completion of this application form is necessary for consideration for registration. Disclosure of this information is voluntary; however, failure to disclose all requested information may result in this form not being processed and may subsequently result in denial of this application. All candidates for registration have an obligation to update and supplement the information and responses on this application if they change. Failure to supplement the information and responses provided on this application may result in denial or other appropriate action. All information provided must be accurate. Please note that the information provided on this application may be subject to the public information laws of this state.

Please type or print. When space provided is insufficient, attach additional pages.

Registration to dispense contact lenses by mail expires one year following the date issued. The person to whom registration is issued is responsible for seeking renewal each year.

1. Business Name:

WebEyeCare, Inc

Other names used, including trade names: _____

2. Address:

Mailing Address: CONFIDENTIAL state zip

E-mail: CONFIDENTIAL

Website: www.WebEyeCare.com

Dispensing Facility: 10 Canal Street Suite 205 Bristol PA 19007
street city county state zip

3. Phone number (include area codes):

Voice: 215-710-8139 Fax: 215-710-8139 Toll Free for Consumers: 888-536-7480

4. Type of Business (check one):

- General Corporation
- Limited Partnership
- Professional Corporation
- Partnership
- Limited Liability Company
- Other: _____

5. Corporate Officers:

not applicable

President's Name: Milla Batushansky
first middle last

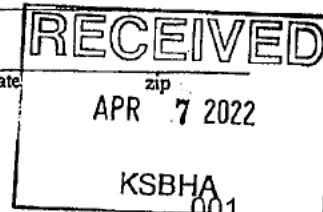
Residential Address: CONFIDENTIAL
street city county state zip

Secretary's Name: _____
first middle last

Residential Address: _____
street city county state zip

Treasurer's Name: _____
first middle last

Residential Address: _____
street city county state zip



From: CONFIDENTIAL
To: [goscha_kathy \[KSBHA\]](mailto:goscha_kathy@ksbha.com)
Subject: RE: Web Eye Care Reinstatement
Date: Tuesday, May 10, 2022 10:54:58 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

CONFIDENTIAL

8/12

Purchase authorized on 08/11 KS Board of Health 785-296-3680
KS S380224607068789 Card 2008

150.00

CONFIDENTIAL

From: Goscha, Kathy [KSBHA] <Kathy.Goscha@ks.gov>
Sent: Monday, May 9, 2022 3:14 PM
To: Kathleen@webeyecare.com
Subject: Web Eye Care Reinstatement

CONFIDENTIAL

Thank you,

Kathy Goscha

Licensing Analyst
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level, Suite A

Topeka, Kansas 66612
Email kathy.goscha@ks.gov
Phone 785.296.0959



This e-mail and any attachments may contain confidential and privileged information and is intended for the addressee only. If you are not the intended recipient, you should destroy this message and notify the sender by reply e-mail. If you do not wish to receive information via e-mail, please contact the sender. Any disclosure, reproduction or transmission of this e-mail is prohibited without specific authorization from the sender.

6. Agent Designated for Service of Legal Process:

Name: National Registered Agents Inc of Kansas

Residential Address: 2101 W 21st St Topeka KS 66604
street city county state zip

7. Name, title and street address of each individual responsible for overseeing the dispensing of contact lenses to persons located in Kansas (attach list if more than one).

Name: Milla Batushansky OD
first middle last title

Address: 10 Canal Street Suite 205 Bristol PA 19007
street city state zip

Voice: 215-710-8139 Fax: 215-710-8139 E-mail: millaod@gmail.com

8. Does the state in which the dispensing facility is located require a license/registration to dispense contact lenses?

No Yes If yes please provide:

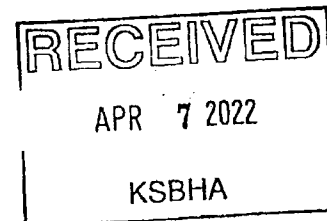
State/Country/Jurisdiction	License, Registrant, Certificate no.	Status	Issue Date
<u>PA</u>	<u>OEG001395</u>	<u>Active</u>	<u>November 2008</u>

9. Regular Hours of Operation:

MON	<u>9-5</u>	TUE	<u>9-5</u>	WED	<u>9-5</u>
THU	<u>9-5</u>	FRI	<u>9-5</u>	SAT	<u>10-2</u>
SUN	<u></u>				

10. Applicant acknowledges and certifies as follows:

- a) Applicant is required to comply with directions and request for information from the appropriate regulatory agency of each state in which applicant is licensed or registered;
- b) Applicant is required to respond directly and within a reasonable period of time, not to exceed 15 days, to all communications from the Kansas State Board of Healing Arts concerning the dispensing of contact lenses;
- c) Applicant is required to maintain records of contact lenses that are dispensed in Kansas, and their corresponding valid, unexpired prescriptions;
- d) Applicant is required and agrees to cooperate with the Kansas State Board of Healing Arts in providing information to the regulatory agency of any state in which the Applicant is licensed or registered concerning matters related to the dispensing of contact lenses in Kansas;
- e) Applicant is required to provide a toll-free telephone service for responding to questions and complaints from individuals in Kansas during Applicant's regular hours of operation, and agrees to include the toll-free number in literature provided with mailed contact lenses;
- f) Applicant is required and agrees to refer all questions relating to eye care for the lenses prescribed to the licensee who determined the contact lens prescription;



- g) Applicant is required and agrees to provide the following written notification whenever contact lenses are supplied: **WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING SYMPTOMS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE OR REDNESS.**
- h) Applicant is required and agrees to fill contact lens prescriptions without deviation or substitution of lenses and according to the strict directions of a person who is either licensed to practice optometry or medicine and surgery in the State of Kansas; and
- i) Applicant submits to the personal jurisdiction of the courts of the State of Kansas and the of the Kansas State Board of Healing Arts, and waives any claim that the Applicant does not have sufficient minimal contact with the State of Kansas or that the courts or the Kansas State Board of Healing Arts might lack personal jurisdiction in connection with any judicial or administrative action arising out of the dispensing of contact lenses by mail within the State of Kansas.

I, Milla Batushansky, hereby certify that I acknowledge the terms, conditions and requirements of Kansas law for dispensing contact lenses by mail, and that I certify compliance with those laws. I have carefully read the questions in the foregoing application and have answered them correctly and without reservation.

Signature: Milla Batushansky

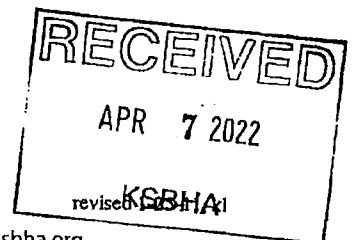
Print Name: Milla Batushansky

Date: 4/1/2022

11. Fees:

Contact lenses registration \$150.00.

Make the fee payable to: Kansas State Board of Healing Arts or charge by credit/debit card using the attached authorization form.





10 Canal St, Suite 205, Bristol, PA 19007
Phone: (888) 536-7480 Fax (888) 479-9973
www.webeyecare.com

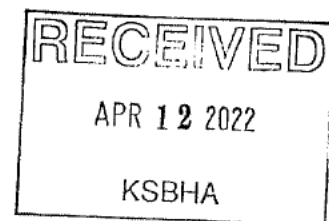
April 4, 2022

Re: Registration 2021

CONFIDENTIAL

A handwritten signature in black ink, appearing to read "Kathleen Lynch".

Kathleen Lynch
Manager
WebEyeCare, Inc.



OFFICIAL RECEIPT
KANSAS BOARD OF HEALING ARTS
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612
(785) 296-7413

RECEIPT NUMBER: 693562

DATE: 04/14/2022

NAME:
Web Eye Care Inc

LICENSE TYPE:
Contact Lens Dist

FEE:
Appl

LIC #:
04/14/22

AMOUNT: 150.00

TYPE: Check

CH/CC #: 1164

RECEIVED FROM:

Web Eye Care Inc

CONFIDENTIAL



APPLICATION FOR REGISTRATION TO DISPENSE CONTACT LENSES BY MAIL

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Other names used, including trade names: _____

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Mailing Address: **CONFIDENTIAL**
public information street city county state zip

E-mail: **CONFIDENTIAL**

Website: www.WebEyeCare.com

Dispensing Facility: 10 Canal Street Suite 205 Bristol PA 19007
street city county state zip

3. Phone number (include area codes):

Voice: 215-710-8139 Fax: 215-710-8139 Toll Free for Consumers: 888-536-7480

4. Type of Business (check one):

- General Corporation
- Professional Corporation
- Limited Liability Company
- Other: _____
- Limited Partnership
- Partnership

5. Corporate Officers: not applicable

President's Name: Milla Batushansky
first middle last

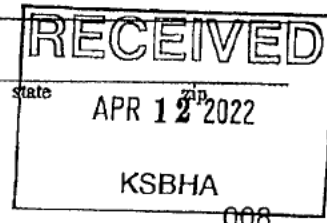
Residential Address: **CONFIDENTIAL**
street city county state zip

Secretary's Name: _____
first middle last

Residential Address: _____
street city county state zip

Treasurer's Name: _____
first middle last

Residential Address: _____
street city county state zip



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Name: National Registered Agents Inc of Kansas

Residential Address: 2101 W 21st St Topeka KS 66604
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7. Name, title and street address of each individual responsible for overseeing the dispensing of contact lenses to persons located in Kansas (attach list if more than one).

Name: Milla Batushansky OD
first middle last title

Address: 10 Canal Street Suite 205 Bristol PA 19007
street city state zip

Voice: 215-710-8139 Fax: 215-710-8139 E-mail: millaod@gmail.com
country

8. Does the state in which the dispensing facility is located require a license/registration to dispense contact lenses?

No Yes If yes please provide:

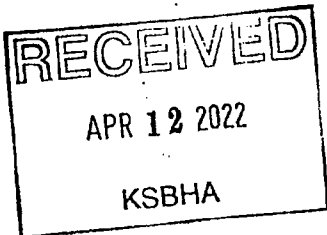
State/Country/Jurisdiction	License, Registrant, Certificate no.	Status	Issue Date
<u>PA</u>	<u>OEG001395</u>	<u>Active</u>	<u>November 2008</u>

9. Regular Hours of Operation:

MON 9-5 TUE 9-5 WED 9-5
 THU 9-5 FRI 9-5 SAT 10-2
 SUN _____

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- c) Applicant is required to maintain records of contact lenses that are dispensed in Kansas, and their corresponding valid, unexpired prescriptions;
- d) Applicant is required and agrees to cooperate with the Kansas State Board of Healing Arts in providing information to the regulatory agency of any state in which the Applicant is licensed or registered concerning matters related to the dispensing of contact lenses in Kansas;
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- f) Applicant is required and agrees to refer all questions relating to eye care for the lenses prescribed to the licensee who determined the contact lens prescription;



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- h) Applicant is required and agrees to fill contact lens prescriptions without deviation or substitution of lenses and according to the strict directions of a person who is either licensed to practice optometry or medicine and surgery in the State of Kansas; and
- i) Applicant submits to the personal jurisdiction of the courts of the State of Kansas and the of the Kansas State Board of Healing Arts, and waives any claim that the Applicant does not have sufficient minimal contact with the State of Kansas or that the courts or the Kansas State Board of Healing Arts might lack personal jurisdiction in connection with any judicial or administrative action arising out of the dispensing of contact lenses by mail within the State of Kansas.

I, Milla Batushansky, hereby certify that I acknowledge the terms, conditions and requirements of Kansas law for dispensing contact lenses by mail, and that I certify compliance with those laws. I have carefully read the questions in the foregoing application and have answered them correctly and without reservation.

Signature: Milla Batushansky

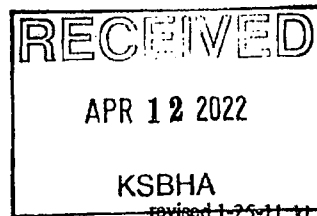
Print Name: Milla Batushansky

Date: 4/4/2022

11. Fees:

Contact lenses registration \$150.00.

Make the fee payable to: Kansas State Board of Healing Arts or charge by credit/debit card using the attached authorization form.



800 SW Jackson, Lower Level-Suite A., TOPEKA KS 66612
Voice: 785-296-7413 Toll Free: 1-888-886-7205 Fax: 785-296-0852 Website: www.ksbha.org



CREDIT CARD PAYMENT AUTHORIZATION

Please enter required information, sign and date at the bottom. Mail or fax form.



CARD NUMBER

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Verification Code

3-4 digit non-embossed number found on the card signature panel

--	--	--	--

Expiration Date

MO YR

_____ / _____

Name (as it appears on the credit card): _____

Billing Address: _____
Street City State Zip

Telephone Number: _____ - _____ - _____

Payment Amount \$ _____ Purpose of Payment: _____
(e.g. renewal, application)

I agree to pay the above amount per the card issuer agreement.

Signature _____ Date _____

Please Note: The information on this form is considered personal and not subject to disclosure under the Kansas Open Records Act.

office use only

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CONFIDENTIAL

FOR DEPOSIT ONLY
USAS STATE BOARD OF HEALING ARTS

013

Lockhart, Dametrea [KSBHA]

From: **CONFIDENTIAL**
Sent: Tuesday, June 7, 2022 9:46 AM
To: Lockhart, Dametrea [KSBHA]
Subject: RE: Compliance

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

CONFIDENTIAL

Kathleen Lynch | General Manager
Email: kathleen@webeyecare.com | Phone: 215-689-0669



From: Lockhart, Dametrea [KSBHA] <Dametrea.Lockhart@ks.gov>
Sent: Tuesday, June 7, 2022 10:03 AM
CONFIDENTIAL
Subject: RE: Compliance

CONFIDENTIAL

Dametrea Lockhart
Dametrea Lockhart, Paralegal
Litigation Department
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612
Direct Line 785-296-4877
Fax 785-368-8120

Dametrea.Lockhart@ks.gov

From **CONFIDENTIAL**

Sent: Friday, June 3, 2022 11:28 AM

To: Lockhart, Dametrea [KSBHA] <Dametrea.Lockhart@ks.gov>

Subject: FW: Compliance

CONFIDENTIAL

Kathleen Lynch | General Manager

Email: kathleen@webevecare.com | Phone: 215-689-0669



From: Goscha, Kathy [KSBHA] <Kathy.Goscha@ks.gov>

Sent: Monday, May 16, 2022 7:02 AM

CONFIDENTIAL

Subject: Compliance

CONFIDENTIAL

Thank you,

Kathy Goscha

Licensing Analyst
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level, Suite A
Topeka, Kansas 66612
Email kathy.goscha@ks.gov
Phone 785.296.0959