

BEFORE THE KANSAS BOARD OF PHARMACY

Received

APR 26 2006

KANSAS STATE
Board of Pharmacy

In The Matter Of)
)
ASHER PHARMACY)
LICENSE NO. 2-09044)
_____)

Case No. 06-33

AGENCY ORDER

ASHER PHARMACY is currently licensed as a pharmacy in the State of Kansas by reason of the Kansas Board of Pharmacy (the "Board") having issued license no. 2-09044. 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 2-09044 which entitles it to function as a pharmacy in the State of Kansas ("Respondent's Registration").

2. That on March 23, 2006 a routine inspection was conducted whereby an individual by the name of Lacy Brickman was performing technician functions while not being actively registered with the Board. The registration for Ms. Brickman had expired on October 31, 2005. There was no record that this individual had renewed her pharmacy technician registration with the Board of Pharmacy although she was still employed with the pharmacy as a technician. ("Investigation Report")

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 June 29, 1998 pursuant to K.S.A. 65-1643.
2. That pursuant to K.S.A. 65-1627 (e) (1) the Board may revoke, suspend, or place in a probationary status or deny a renewal of the registration of a pharmacy upon a finding that (1) Such pharmacy has been operated in such a manner that violations of the provisions of the pharmacy act of the state or the rules and regulations of the board have occurred in connection therewith.
3. That K.S.A. 65-1663 (h) states in part, "it is the responsibility of the supervising pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the board."
4. That K.S.A. 65-1663 (a) states that it shall be unlawful for any person to function as a pharmacy technician in this state unless such person is registered with the Board as a pharmacy technician.

ORDER

Based upon the foregoing findings and conclusions, Respondent is hereby assessed a fine in the amount of \$500 for permitting a pharmacy technician to function in the prescription area without being registered . 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.

4/27/06
Date

JoAnne Gilstrap, R.Ph.
Investigation Member
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 28 day of April, 2006,
deposit in the United States mail, postage prepaid, a copy of the foregoing
AGENCY ORDER, properly addressed to the following:

Jarrett Asher
Pharmacist in Charge
311 N. Hospital Dr.
Paola, KS 66071

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