

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Michael Barbieri)
14-103442)
_____)

Case No. 17-161

SUMMARY ORDER OF DENIAL

NOW on this 17 day of November, 2017, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Michael Barbieri, ("Applicant"), for application for a Kansas pharmacy technician application.

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 Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board's Executive Secretary enters this Summary Order of Denial in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order.

FINDINGS OF FACT

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

1. On July 7, 2017, the Board received Applicant's application for registration as a pharmacy technician in the State of Kansas ("Applicant's Application").
2. As part of Applicant's Application he answered "Yes" to the question: "Have you been charged with or convicted of (includes plea of guilty or no contest) a criminal offense or is there any criminal charge now pending against you (other than minor traffic violations) in

any state or federal court whether or not a sentence was imposed, suspended, or diverted? This includes misdemeanors.”

3. Applicant included an S-150 Personal History Form and disclosed having “multiple speeding tickets”, and provided no other information.

4. The background report provided to the Board by the Kansas Bureau of Investigation reported the following offenses:

- a. 1998 Felony Wire Fraud: Applicant plead guilty and was ordered to pay over \$18,000 in restitution and sentenced to 18 months in prison with 2 years’ supervised release.
- b. 2002 Supervised Release violation

5. On August 16, 2017, the Board requested Applicant submit a new completed S-150 Personal History Form to explain the felony conviction.

6. On September 15, 2017 Applicant submitted a second completed S-150 Personal History Form to the Board, explaining the felony incident. Applicant detailed that he had misappropriated approximately \$98,000 from contracts through his employer. Applicant also detailed how he sought out psychiatric assistance after confessing to wire fraud to law enforcement.

7. Applicant also details in his second S-150 how he spends his time assisting at the VA and VFW clinics. Also included were various recommendation letters from family members and associates.

CONCLUSIONS OF LAW

8. That pursuant to K.S.A. 65-1663, the Board may limit, suspend, or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground which would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.

9. That pursuant to K.S.A. 65-1627(a)(2), the Board may deny the granting of a license to a licensee who has been convicted of a felony and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust.

10. Pursuant to K.S.A. 65-1627(a)(3), the Board may deny the granting of a license to an Applicant who has been found guilty of unprofessional conduct.

11. Pursuant to K.S.A. 65-1626(sss), unprofessional conduct means conduct likely to deceive or harm the public.

12. Applicant disclosed efforts at rehabilitation, but these explanations are ultimately insufficient considering the gravity of the offenses coupled with the fact that Applicant would have access to personal health information, identifications, money and controlled substances.

13. Applicant's felony conviction for fraud, the dishonesty within the first S-150 in Applicant's Application in regards to the previous felony conviction, and lack of sufficient evidence of rehabilitation is a basis to deny Applicant's Application for failure to comply with K.S.A. 65-1627(a)(2) and K.S.A. 65-1627(a)(3).

ORDER

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

NOTICES

Applicant is hereby notified as follows:

14. Applicant 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 fifteen (15) days after service of this order.

15. If a hearing is not requested as described above, the Order denying Applicant's Registration as a pharmacy technician shall become a final order of the Board, effective upon the expiration of the time to request a hearing.

16. 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.

17. 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

Alexandra Blasi, JD, MBA
Executive Secretary

In the Matter of Michael Barbieri 17-161

SUMMARY ORDER OF DENIAL

Page 4 of 6

Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

IT IS SO ORDERED.

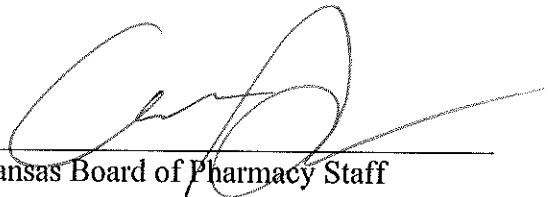
11/20/17
Date

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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 20 day of November, 2017 deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order of Denial, properly addressed to the following:

Michael Barbieri
1339 Montana
Derby, KS 67037



Kansas Board of Pharmacy Staff