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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

July 30, 2019

James Burton
2509 S 48th Terr
Kansas City KS 66106

RE: Case No. 19-081

Dear Mr. Burton:

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

Filed By

JUL 30 2019

KANSAS STATE BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
James Burton)
)
Applicant)

Case No. 19-081

SUMMARY ORDER OF DENIAL

NOW on this 30th day of July, 2019 comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of James Burton ("Applicant"), for application for a Kansas pharmacy technician registration.

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 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

1. On November 21, 2018, the Board received Applicant's application for registration as a pharmacy technician in the State of Kansas ("Applicant's Application").
2. Applicant answered "Yes" to the following question on his application: 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 answered “Yes” to the following question on his application: Have you ever been charged with or convicted of (includes plea of guilty or no contest) or charged with a violation of any federal or state drug law(s) or rule(s) whether or not a sentence was imposed, suspended, or diverted?

4. As part of Applicant’s Application, Applicant certified that the information provided was true, correct and complete, and understood that falsification of the information provided was grounds for denying Applicant’s Application.

5. As part of Applicant’s Application, Applicant disclosed that he pleaded guilty to possessing a fire arm under the influence of alcohol and driving under the influence charges in May 2017.

6. The Board received information regarding the following additional offenses: a 1998 conviction for misdemeanor disorderly conduct, a 1997 felony charge for sale/offer illicit drugs resulting in a 1999 conviction for felony possession of depressants, stimulants, hallucinogenics, or steroids, a 1999 person misdemeanor battery offense resulting in a disorderly conduct conviction, a probation violation, a 2005 misdemeanor domestic battery offense, a 2005 disorderly conduct offense, a 2009 misdemeanor domestic battery offense, a 2010 maximum speed limit and driving while suspended/cancelled/revoked offense, a 2010 felony narcotics offense, and a 2012 driving under the influence offense.

7. On March 6, 2019, the Board mailed Applicant a letter requesting a more thorough and completed Personal History Form S-150, as well as certified copies of the court pleadings from each case.

8. On or about April 12, 2019, the Board received a brief S-150 from Applicant and copies of criminal offense documentation. Applicant stated that he had learned his lesson and

looked forward to a better future, and noted his hard work and dedication while employed at United Health Group. Applicant provided a letter of recommendation from his supervisor indicating that he had a positive attitude, great work ethic, and thrives in a learning environment.

CONCLUSIONS OF LAW

1. 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.

2. Pursuant to K.S.A. 65-1627(a)(1), the Board may deny an application of any pharmacist who has obtained, renewed or reinstated, or attempted to obtain, renew or reinstate, a license by false or fraudulent means, including misrepresentation of a material fact.

3. Pursuant to K.S.A. 65-1627(a)(2), the Board may deny an application upon a finding that the licensee has been convicted of any felony or misdemeanor of gross immorality or moral turpitude, and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust.

4. Pursuant to K.S.A. 65-1627(a)(3), the Board may deny an application of any pharmacist who has been found guilty of unprofessional conduct.

5. Pursuant to K.S.A. 65-1626(ttt), unprofessional conduct means conduct likely to deceive or harm the public, and/or fraud in securing a registration.

6. Applicant's response to the application question indicated only a 2017 offense and failed to disclose multiple other criminal offenses. Such failure was a misrepresentation of a material fact and a basis to deny Applicant's Application pursuant to K.S.A. 65-1627(a)(1).

7. Applicant's personal statement failed to acknowledge or take responsibility for his wrongful conduct. Furthermore, Applicant provided no evidence of rehabilitation beyond completion of his mandated court requirements. Though Applicant provided a letter from his supervisor, none of Applicant's submissions expressed an awareness of the link between the pharmacy practice setting and Applicant's history of alcohol and drug offenses.

8. Applicant's felony and drug offenses, as well as Applicant's failure to demonstrate rehabilitation are a bases to deny Applicant's Application pursuant to K.S.A. 65-1627(a)(2).

9. Applicant's recent arrest and conviction for fire arms and DUI, as well as his previous criminal offenses dating back to 1997 demonstrate a lengthy and diverse criminal offense history (20 years). Applicant's pattern of criminal conduct and drug-related offenses may place the public at risk, especially in a pharmacy practice setting, and are unprofessional conduct and a basis to deny Applicant's Application pursuant to 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:

1. 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.

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

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

IT IS SO ORDERED.

7/30/19
Date

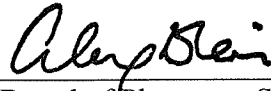


Alexandra Blasi, JD, MBA
Executive Secretary
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 30th day of July, 2019, 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:

James Burton
2509 S 48th Terr
Kansas City KS 66106



Kansas Board of Pharmacy Staff