

Filed By

JUN 16 2020

KANSAS STATE
BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of

Jason A. Kent, R.Ph

Case No. 20-024

FINAL ORDER

Decision

Having heard the testimony of the witness(es), considered the evidence presented, reviewed the applicable statutes, regulations and policies, and otherwise being duly and fully informed in the premises of this matter, it is the decision of the Kansas Board of Pharmacy (Board) to suspend the pharmacy license of Jason A. Kent (Kent) under the terms and conditions set forth hereinbelow.

Statement of Case

This matter comes on for hearing on this the 10th day of March 2020, before the Board upon the Notice of Hearing issued by the Board to Kent on February 24, 2020 regarding a Petition to Revoke, Suspend or Otherwise Limit the Licensure of Kent issued on February 21, 2020.

Appearing for the Board were: Jonathan Brunswig, PharmD, President; and members, John Worden, PharmD; Bill Walden, R.Ph; Terica Gatewood, PharmD; Michael Lonergan, R.Ph; Tiffany Strohmeyer, PharmD; and, Cheri Pugh, Public Member.

Timothy Resner appeared as the Board's disciplinary counsel.

Kent appeared in person *pro se*.

Loren F. Snell, Jr., Presiding Officer, was appointed and served as the Presiding Officer over the evidentiary hearing.

Evidentiary Rulings

The Board offered Exhibits 1 through 9 for admission as evidence. Kent had no objection to admission of Exhibits 1 through 9. Board's Exhibits 1 through 9 were admitted.

Kent offered Appellant's Exhibit A for admission as evidence. Counsel for the Board had no objection. Appellant's Exhibit A was admitted into evidence.

Due to the confidential nature of the testimony to be provided during the hearing, it was requested that the hearing be closed to the public to safeguard protected health information. There were no objections to the matter being closed to the public. The hearing was closed.

Findings of Fact

1. On or about September 10, 2019, Kent and the Board entered into a Stipulation and Consent Agreement (Consent Agreement) in case number 18-033. (Exhibit 1)

2. The Consent Agreement was entered into in response to an investigation that had been conducted in which it was concluded that Kent had committed an act or acts in violation of K.S.A. 65-1627(a) which justified discipline of Kent's Kansas Pharmacy License. The contents of the Consent Agreement are adopted and made a part of this Final Order as if fully set forth herein.

3. As part of the Consent Agreement, Kent was required to remain in full compliance with a Settlement Agreement entered into with the Missouri Board of Pharmacy, pay an administrative fine, be subject to a five (5) year probation period, enter into a Statement of Understanding agreement with the Kansas Pharmacists Association Committee on Impaired Pharmacy Practice Program (CIPP), not serve as a pharmacist in charge, comply with the Consent Agreement and Comply with the Kansas Pharmacy Law.

4. On July 31, 2019, Kent executed a KsPRN Substance Abuse Program Board Referred Statement of Understanding (Statement of Understanding). (Exhibit 2) The Statement of Understanding was to be in place for a period of five (5) years. Pursuant to the Statement of Understanding, Kent was prohibited from using “any mood altering drugs of addiction, including alcohol and/or prescription medications unless prescribed by my physician.”

5. Pursuant to the Statement of Understanding Kent was required to undergo monitoring by FirstSource Solutions and participate in the drug screening program. Kent was required to call in daily between 5:00 a.m. and 2:00 p.m. to see if he had been selected to participate in random drug testing that day.

6. Kelly Rockers (Rockers) is the Coordinator of Member Services and KsPRN Manager.

7. Rockers provided a Detailed History Report listing the test results and missed calls for Kent between July 23, 2019 and February 17, 2020.

8. Rockers noted that the positive test results were acceptable as Kent had a prescription for the drugs for which he had tested positive. Rockers was concerned that Kent had failed to check-in with FirstSource Solutions on four (4) separate occasions and was late one (1) other occasion, all in the month of January 2020.

9. Rockers stated that Kent told her several times that he was “done” and wanted to “check out.” Rockers stated that Kent had told her if he knew his affairs were in order and his possessions would go to his children he would commit suicide. Rockers stated that she was concerned because of Kent’s expression of suicidal thoughts.

10. On January 13, 2020 Kent was charged with one count of domestic battery, a class B person misdemeanor. (Exhibit 8) Kent pled no contest to the domestic battery charge on February 13, 2020 and was subsequently convicted and placed on twelve (12) months probation.

11. The CIPP met on January 30, 2020 to discuss Kent's non-compliance with the Statement of Understanding, as well as the suicidal ideation and the domestic battery charge. The CIPP recommended, among other things, that Kent be referred to the Kansas State Board of Pharmacy due to his non-compliance. (Exhibit 4)

12. A letter was sent to Kent on January 31, 2020. (Exhibit 5)

13. Kent acknowledged that he was an addict but had been sober for five (5) years and was not going to relapse. Kent stated that he attends meetings and has a sponsor and his sobriety is the most important thing.

14. Kent stated that he lost his job due to layoffs.

15. Kent has obtained a real estate license but had not started listing homes yet. He still has one class to take and is developing his social profile.

16. Kent stated that he is currently working for Amazon working the night shift (gets off between 3:30 and 5:30 a.m.). Kent stated that he is sleep deprived and stressed due to his financial situation. Kent stated that he felt shame and guilt because he cannot provide for his children like he had.

17. Kent stated that he missed the call on January 13, 2020 because he was in jail on the domestic battery charge. Kent stated that he missed the call on January 18, 2020 because he had worked the night before and slept through the time period to call. Kent also worked on January 19, 2020 (the night before his missed call on January 20, 2020). Kent stated that he now calls FirstSource on his way home from work and before he gets home and has a chance to fall asleep.

18. Kent also provided the Board with a written explanation of the events on January 12, 2020 that led to his charge and eventual conviction for domestic battery (Exhibit A) as well as a verbal discussion of the events.

Analysis and Conclusions of Law

“The board may revoke, suspend, place in probationary status or deny an application or renewal of any license of any pharmacist upon a finding that: (13) the licensee has self-administered any controlled substance without a practitioner's prescription order or a mid-level practitioner's prescription order; or (16) the licensee has violated or failed to comply with any lawful order or directive of the board.” K.S.A. 65-1627(a).

The Board took into consideration that Kent had entered into a Stipulation and Consent Agreement in which he had agreed to enter into a Statement of Understanding with KsPRN, which he did. However, Kent also agreed to “at all times, be in full compliance with the requirements of the KsPRN Agreement and other requirements placed upon him by KsPRN.” One of the conditions of the Statement of Understanding was that Kent was prohibited from using “any mood altering drugs of addiction, including alcohol and/or prescription medications unless prescribed by my physician” and was to continue with the random testing through FirstSource Solutions and check in every day. On multiple occasions Kent failed to comply with the Statement of Understanding, having missed four (4) call-ins completely and been late for a fifth (5th).

As part of the Stipulation and Consent Agreement Kent was to comply with the Kansas Pharmacy Act, the Board’s rules and regulations, and all state and federal laws relating to Kansas pharmacists. The Board noted that this matter came back before the Board in part due to the missed calls, but also due to the domestic battery conviction.

The Board noted that based upon Kent's actions, it was within the Board's statutory authority to revoke Kent's pharmacist license, not just suspend it. The Board considered that Kent be allowed to keep his license but not be in a position to obtain a job as a pharmacist at this time.

Decision

The Board voted 6 in favor, none opposed and 1 abstention to suspend Kent's pharmacist license for a period of one (1) year from the date of the hearing (March 10, 2020). During the period of suspension Kent is to:

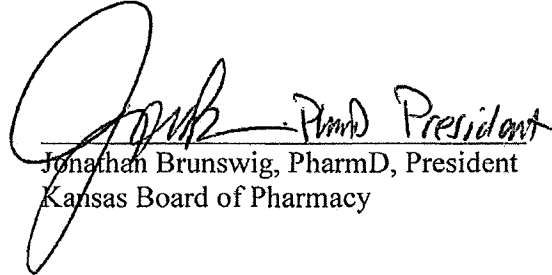
- Remain in strict compliance with the Statement of Understanding entered into with KsPRN, zero tolerance for any violations.
- Within 45 days of the date of the hearing Kent was to obtain a mental health evaluation and comply with all recommendations, including, but not limited to, attending regular therapy sessions. Kent was to provide a copy of the completed evaluation to the Board and KsPRN.
- Kent shall remain in compliance with the terms and conditions of the Stipulation and Consent Agreement previously entered into with the Board.

Kent shall reappear before the Board within one (1) year and prior to being released from the suspension.

The Board shall not issue a fine to Kent.

The Board shall issue a letter to the Kansas Real Estate Commission regarding the status of Kent's pharmacy license and emphasizing that the Board's action should not affect Kent's endeavors as a licensed real estate agent.

5-20-20
Date


Jonathan Brunswig, PharmD, President
Kansas Board of Pharmacy

NOTICES

1. This is a Final Order and becomes effective upon service.
2. **Within fifteen (15) days** after service of the Final Agency Order, any party may file a Petition for Reconsideration pursuant to K.S.A. 77-529.
3. Either party to this agency proceeding may seek judicial review of the Final Order by filing a timely petition in the District Court as authorized by K.S.A. 77-613. Reconsideration of the Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed **within thirty (30) days** following service of the Final Order.
4. A copy of any petition for judicial review must be served upon the Kansas Board of Pharmacy. The agency officer designated to receive service of a petition for judicial review is:


Alexandra Blasi, Executive Secretary
Kansas State Board of Pharmacy
800 SW Jackson #1414
Topeka, KS 66612-1244

Certificate of Service

I hereby certify that I did, on the 16 day of June, 2020 deposit in business mail a copy of the foregoing Order, which is then placed in the United States Mail, postage prepaid, properly addressed to the following:

Jason A. Kent
16102 W. 157th St.
Olathe, KS 66062

Timothy Resner
Frieden & Forbes, LLP
1414 SW Ashworth Place, Ste 201
Topeka, KS 66604



Kansas Board of Pharmacy