



BEFORE THE KANSAS BOARD OF PHARMACY

In The Matter Of )  
 )  
TOBY R. LINEBAUGH )  
REGISTRATION NO. 14-01216 )

Case No. ~~0454~~ 5-04

**AGENCY ORDER**

Toby R. Linebaugh (the "Respondent") is currently authorized to function as a pharmacy technician in the State of Kansas by reason of the Kansas Board of Pharmacy (the "Board") having issued his Registration No. 14-01216.

On February 17, 2005 an Emergency Agency Order was issued suspending the Respondent's pharmacy technician registration until further order of the Board (the "Emergency Agency Order").

It has come to the attention of the Board's Investigation Member that Respondent has been caught and admitted to diverting drugs, including controlled substances, from his employer over an extended period of time and self-administered controlled substances without an appropriate prescription order.

After considering the foregoing, the Board's Investigation Member, in accordance with the authority granted to him 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 registration number 14-01216 which entitled him to function as a pharmacy technician in the State of Kansas ("Respondent's Registration").

2. The Respondent has been caught and admitted to diverting drugs, including controlled substances from his employer over an extended period of time and self-administered controlled substances without an appropriate prescription order.

## 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. The Respondent's history of diverting and self-administering drugs, including controlled substances indicates the Respondent is addicted to drugs and cannot control his desire for those drugs.

2. Being addicted to and consuming the drugs Respondent has admitted to would impair a human being, like Respondent, to the point that he would pose an immediate danger and significant risk to those members of the public who are customers of a pharmacy in which he might be working. As a result of these risks, customers of a pharmacy in which the Respondent might be working could receive drugs or inappropriately take drugs that could cause them severe harm, if not death.

3. The acts committed by Respondent are a basis for discipline of Respondent's Registration pursuant to various provisions of the Pharmacy Act, including K.S.A. 65-1663 and K.S.A. 65-1627 (3), (4) and (13).

### III. ORDER

Based upon the foregoing findings and conclusions, Respondent's Registration is hereby revoked. Should the Respondent request a hearing regarding this Agency Order, the provisions of the Emergency Agency Order shall remain in effect until the Board issues its order following the hearing.

### IV. NOTICES

The Respondent is hereby notified as follows:

1. The Respondent may request a hearing pursuant to the Kansas Administrative Procedures Act by filing a written request with the Kansas Board of Pharmacy, 900 SW Jackson, Room 560, Topeka, Kansas 66612 within (15) days after service of this Order.
2. If a hearing is not requested as described above, the order Revoking the Respondent's Registration as a pharmacy technician shall become 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, Room 560  
Topeka, KS 66612

IT IS SO ORDERED.

6-7-05

Date

FRANK WHITCHURCH, R.Ph.,  
Investigation Member  
Kansas Pharmacy Board

**CERTIFICATE OF SERVICE**

I hereby certify that I did, on the 8 day of June, 2005, deposit in the United States mail, postage prepaid, a copy of the foregoing AGENCY ORDER, properly addressed to the following:

Toby R. Linebaugh  
3421 Zoo Blvd. #3  
Wichita, KS 67203

Debra Billingsley  
Executive Director  
Kansas Board of Pharmacy  
900 SW Jackson, Room 560  
Topeka, KS 66612