

BEFORE THE KANSAS BOARD OF PHARMACY

Filed By
APR 06 2018
KANSAS STATE
BOARD OF PHARMACY

In the Matter of

Case No. 17-154

Jason MARRS

FINAL ORDER

Statement of Case

This matter comes on for hearing before the Kansas Board of Pharmacy (Board) upon the application of Jason MARRS for registration as a pharmacy technician in the State of Kansas.

The hearing in this matter was held on March 8, 2018. Appearing for the Board were: John Worden, PharmD, President; Michael Lonergan, R.Ph., Vice President; and members, Jonathan Brunswig, PharmD; Robert Haneke, PharmD; Cheri Pugh, Public Member, Chad Ullom, R.Ph., and Bill Walden, R.Ph.

Randall J. Forbes appeared as the Board's disciplinary counsel.

Jason MARRS appeared *pro se*.

Findings of Fact

1. On July 21, 2017, the Board received Mr. MARRS' application for registration as a pharmacy technician in the State of Kansas (application).
2. On his application, Mr. MARRS answered "No" to the question: "Have you been convicted of (includes pleas of guilty or no contest) a criminal offense or is there any criminal charge pending against you (other than minor traffic violations) in any state or federal court whether or not a sentence was imposed, suspended, or diverted?"

3. On August 15, 2018, the Board notified Mr. Marrs that the background report from the Kansas Bureau of Investigation indicated that he had a 2008 DWI, 2008 criminal use of weapon, and 2012 felony distribution of controlled substance charges which he had failed to disclose to the Board.
4. The Board requested that Mr. Marrs complete a S-150 Form, as well as certified copies of the court pleadings from the case. In the event no criminal records were available for a case, Mr. Marrs was directed to provide a letter from the clerk of the court stating that there were no records available.
5. The Board received the S-150 Form explaining that he had answered no as to the DWI because he was not convicted. He stated that he contacted the "State Office" to get the paperwork and was told because the DWI happened nine years ago, they could not find any records on it.
6. As to the 2008 criminal use of a weapon, Mr. Marrs stated that he had purchased a weapon legally and was in his backyard target practicing and someone called the police. He stated that he entered a plea to discharging a firearm in city limits and was given two weeks of house arrest. Mr. Marrs claimed that charge was not supposed to be on his record, so he answered no.
7. As to the 2012 felony distribution of a controlled substance charge, Mr. Marrs provided a Notice of Inability to Process (Notice) from the Circuit Court of Jackson County, Missouri, which he claimed showed that he was

never charged with a felony. The Notice, however, indicated that the Department of Criminal Records had performed a cursory database search for the records requested by Mr. Marrs and confirmed that the search produced no results but neither confirmed or denied that a record may indeed exist.

8. Mr. Marrs also stated that he has a pharmacy license in Missouri and is working security at a pharmacy in Missouri. He currently resides in Missouri.
9. On December 11, 2017, the matter was reviewed by the Investigative Member of the Board and it was determined that the matter would be set for hearing before the full Board.
10. Mr. Marrs appeared and testified on his own behalf.

Applicable Law
and
Discussion

1. 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. K.S.A. 65-1627(a)(2) provides that the Board may deny an application for registration as a pharmacy technician if the applicant “has been convicted of a misdemeanor involving moral turpitude or gross immorality or any

felony and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust.”

3. During the hearing, Mr. Marrs’ testimony as to the DWI and the firearm were consistent with what he had stated on the S-150 form. As to the 2012 felony distribution of a controlled substance charge, he testified that he was “at the wrong place, at the wrong time.”
4. Based on the evidence provided, the Board finds that denial of Mr. Marrs’ application for registration as a pharmacy technician in the State of Kansas is warranted.
5. Mr. Marrs was not forthcoming on his application with regard to his criminal background.
6. In addition, Mr. Marrs has failed to provide any documentary evidence as to the DWI and the firearm offenses. While he did provide the Notice with regard to the felony distribution charge, the Notice only indicated that upon a “cursory” search of the database, there were no results. The Board is unwilling to rely solely on Mr. Marrs’ testimony as to each of these matters.
7. In addition, Mr. Marrs failed to provide any evidence as to his character such as letters of recommendation from employers.

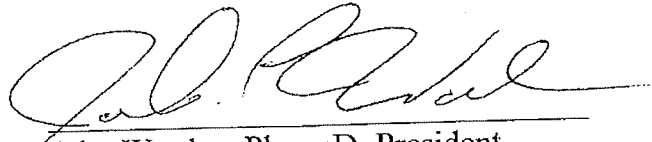
Order

On the unanimous vote of the Board, Mr. Marrs’ application for registration as a Kansas pharmacy technician is denied.

IT IS SO ORDERED.

4/5/18

Date



John Worden, 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

On April 6th, 2018, I mailed a copy of this document
to:

Jason Marrs
7516 Olive Street
Kansas City, MO 64132

Randall J. Forbes
Frieden, Unrein & Forbes
1414 SW Ashworth Pl, Ste. 201
Topeka, KS 66604

and hand-delivered a copy to:

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

Jamie Moran
Staff Person