

Filed By

NOV 14 2019

KANSAS STATE
BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of

Case No. 19-044

Alex Conley

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) that Alex Conley (Conley), pharmacy intern, shall be placed on probation for a period of two (2) years. The terms of probation are as follows:

- Notify the Board of the progress of the court case that is the subject of these proceedings;
- Notify the Board of any change in her criminal history or any future criminal offense incidents within 10 days of the change;
- Notify the Board of any change in employment within 10 days of the change;
- Inform employers of the probationary status of her pharmacy intern registration;
- Obtain the signature of her pharmacist-in-charge (PIC) and preceptor documenting knowledge of her probationary status and submit the same to the Board; and,
- Comply with all rules and regulations of the Pharmacy Practice Act.

Statement of Case

This matter comes on for hearing on this the 12th day of September 2019, before the Board upon the review of Conley's permit to be a pharmacy intern in the State of Kansas.

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

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

Conley appeared in person and *pro se*.

Evidentiary Rulings

The Board offered Exhibits 1 through 4 for admission as evidence. Conley had no objection. Exhibits 1 through 4 were admitted into evidence.

Discussion

Findings of Fact

1. Conley was registered as Pharmacy Intern in the State of Kansas.
2. On or before February 11, 2019 the Board was made aware that Conley had been charged with possession of a hallucinogenic drug (marijuana) and use/possession with intent to use drug paraphernalia on February 3, 2019.
3. On February 11, 2019 the Board sent an email to Conley and requested to complete a Form S-150 Personal History explaining the incident on February 3, 2019.
4. Conley did not respond to the request.
5. On May 15, 2019 the Board sent another final request to Conley to complete a Form S-150 Personal History regarding the incident on February 3, 2019.
6. On May 24, 2019 the Board received a completed Form S-150 Personal History from Conley, as well as a written explanation of the offense and the events leading up to it. Conley disclosed that he was returning a friend's "equipment" to the friend when he was pulled over for

speeding. A K-9 unit alerted on Conley's vehicle, resulting in a search and the location of drug paraphernalia.

7. According to an affidavit from an officer on the scene, a Tupperware container with "a quantity of suspected Butane Honey Oil in it" was located, as well as a marijuana pipe, a metal pipe pick and a Butane Honey Oil smoking device. The Butane Honey Oil tested positive for THC (tetrahydrocannabinol). Conley stated to the officer(s) that the items found "belonged to his roommate."

8. Conley indicated that he had "elected to part take [sic] in a one-year diversion program": however, no documentation relating to the diversion was provided to the Board.

9. Conley acknowledged that he made a mistake, took responsibility for his conduct and apologized to the Board.

10. As to the failure to respond to the initial email sent to him regarding the incident, Conley related that he had not received the email as it was sent to a wrong email address.

Applicable Statutes, Regulations and Policies

1. "The board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy intern 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." K.S.A. 65-1676.

2. The Board may suspend the license of a pharmacist (pharmacy intern) who "has violated a provision of the federal or state food, drug and cosmetic act, the uniform controlled substances act of the state of Kansas, or any rule and regulation adopted under any such act." K.S.A. 65-1627(a)(5).

3. The Board may deny the granting of a license to a pharmacist who has “failed to comply with any lawful order or directive of the Board.” K.S.A. 65-1627(a)(16).

4. In considering this matter the Board expressed concern that Conley had failed to respond to the request issued by the Board, noting that Conley had a responsibility to ensure that the Board had up-to-date information in the event that the Board had to contact him.

5. The Board took into consideration the fact that Conley was forthright in his description of and in taking responsibility for the incident, and for expressing his remorse.

Decision

The Board voted 6 to 1 to place Conley on a 2-year probationary status, with the standard terms and conditions of probation.

11-13-19

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 Nov 14th, 2019, I certify that a copy of the foregoing was placed in building mail, the same to be sent via United States first class mail, postage prepaid, addressed to:

Alex Conley
1365 E. Meadow Lane
Olathe, KS 66062

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

and, I further certify that I caused a copy of the foregoing to be hand-delivered to:

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



Staff Person
Kansas Board of Pharmacy