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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

May 6, 2020

MONICA DYKES
1540 DOVER RD
M[°]PHERSON, KS 67460

RE: Case No. 19-597

Dear Ms. Dykes:

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

MAY 6 2020

KANSAS STATE BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Monica Dykes)
)
Applicant)

Case No. 19-597

SUMMARY ORDER

NOW, on this 6th day of May, 2020, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Monica Dykes ("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 and investigation materials, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order.

FINDINGS OF FACT

1. On November 18, 2019, 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 her 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." The application directs that if the applicant answers yes, the applicant must attach a Form S-150: Personal History Form ("S-150").

3. On her S-150, Applicant briefly disclosed that she had been charged with theft, but provided no supporting court documentation.

4. On December 19, 2019, the Board mailed Applicant a letter requesting a more detailed narrative regarding the incident, as well as certified copies of relevant court documents from the case, including any diversion agreement.

5. By December 30, 2019, the Board had received the requested documentation from Applicant, which was then forwarded to the Board's Individual License Evaluator ("Evaluator") for investigation.

6. Applicant's court documents showed that in March of 2012, Applicant had entered into a two-year pretrial diversion agreement, the terms of which she successfully completed in April of 2014. In the diversion agreement, Applicant stipulated as fact the following:

- That unauthorized purchases debited from a company's ("the company") bank account were made monthly, between March 2006 and October 2010.
- That said unauthorized purchases were made electronically, using the company's checking account number and routing number via phone.
- That said unauthorized purchases, after figuring interest, totaled the company a loss of \$19,482.35.
- That monthly account bills owed to the company and associated with Applicant were credited as payment *to* the company utilizing the same transaction method as the unauthorized purchase debits *from* the company.
- That Applicant had stated making payments on the above bills using money orders, purchased from Dillons, Walmart, and People's Bank.

- That Applicant had no records or documentation of such money orders.
- That Applicant personally knew the company's former employee, who initially sold Applicant the company's wares.
- That said former employee had been terminated due to embezzlement, having himself stolen the company's property, which he then sold on eBay.

7. Applicant wrote the following in her narrative to the Board, though incongruent with her claim to have paid her bills via money order:

- That she "had set [her] phone bill to come out automatically".
- That "little did [she] know the payments were not coming out of [her] account".
- That for the four-and-a-half-year period during which the theft took place, she and her husband "were not good at a budget, so [she] never paid attention that the phone bill was not coming out [of her account]."

8. The Evaluator's report noted that during her phone interview with Applicant, Applicant was unable to accept responsibility for her wrongdoing, as she maintained having had no knowledge of her theft at any time during its occurrence. The Evaluator's report noted Applicant's successful completion of 40 hours community service, drug and alcohol testing, and payment of restitution costs as outlined in her diversion agreement, but noted the severity and length of Applicant's offense.

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)(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.

3. Applicant's pattern and practice of corporate theft is a basis to deny Applicant's Application pursuant to K.S.A. 65-1627(a)(2), as through her unacceptance of responsibility and lack of acknowledging her conduct she has shown herself insufficiently rehabilitated to warrant the public trust at this time.

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(uuu), unprofessional conduct means conduct likely to deceive or harm the public, and/or fraud in securing a registration.

6. Applicant's theft incident constitutes conduct which, in the pharmacy setting involving patients, insurance, and payments, is likely to harm the public, and as such is 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.

5/6/2020
Date

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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 6th day of May 2020, 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:

MONICA DYKES
1540 DOVER RD
McPHERSON, KS 67460



Kansas Board of Pharmacy Staff