

December 28, 2023

Amber Haag
118 W Santa Fe
Olpe KS 66865

RE: Case No. 23-413

Dear Ms. Haag:

Enclosed you will find an Amended Summary Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety. The Board has already received payment for the fine.

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

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Amber Haag)
)
License No. 1-13450)

Case No. 23-413

AMENDED SUMMARY ORDER

NOW on this 28th day of December, 2023, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Amber Haag (“Respondent”).

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 Amended Summary Order in the above-captioned matter. After reviewing the investigation materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. The Board has previously issued Respondent License No. 1-13450 which entitles Respondent to practice as a pharmacist in the State of Kansas.
2. The Board previously issued Jody Thomas registration number 14-102326, which entitled Thomas to operate as a pharmacy technician in the State of Kansas, until the registration expired for nonrenewal on October 31, 2018.
3. The Board previously issued Marsha Mash registration number 14-01612, which entitled Marsh to operate as a pharmacy technician in the State of Kansas, until the registration expired for nonrenewal on October 31, 2016.

4. At all times relevant hereto, Respondent served as Pharmacist-in-Charge (“PIC”) at Haag Pharmacy (“Pharmacy”).

5. On July 9, 2023, Board staff received an email from Respondent wanting “to touch base with you regarding a situation that has come up at the pharmacy involving a couple members of our staff.”

6. On July 10, 2023, Board inspector Seufert conducted a phone conversation with Respondent during which Respondent gave details of Thomas’ accusations against Crespino involving tampering with her work. Respondent reported she had begun an internal investigation by reviewing video footage of 5 of the 18 instances Thomas had presented to her. She was going to continue reviewing footage and notify the inspector when that was complete. Respondent also noted that Thomas had let her Kansas technician registration lapse and that had been denied registration by the Board due to her lacking national certification.

7. On August 7, 2023, the Board received a consumer complaint regarding technician conduct at the Pharmacy.

8. On or around August 16, 2023, the Board received a statement from Thomas indicating she was hired as a pharmacy technician and started work at the Pharmacy on January 4, 2023, but was not a registered technician at the time. Thomas also indicated that during a prior visit from a Board inspector, she was at lunch and was asked by Respondent to go back to her car upon returning from lunch until the inspector left. Thomas described the process she followed to fill home delivery medications which included gathering necessary medications, read label and double check the correct medication, fill the pack, initial the printout and make sure all lot numbers are filled in. Thomas indicated she reported suspicious errors to Respondent but the issues went unaddressed and Respondent terminated Thomas’ employment on July 8, 2023. Thomas reported

she was trained by a pharmacy technician and co-worker Marsha Marsh, and had the same job duties as Marsh.

9. On August 28, 2023, upon request, the Board received an employment timeline from Respondent for Thomas, which indicated the following:

- a. Hired January 3, 2023 as a customer service specialist and special projects
- b. February 2023 “began training on Haag Home Pack filling procedures in special packaging (SP) room as we found out Marsha was going to be having surgery in early March.” “Spoke with Jody about needing to submit application for registration with State Board and she indicated no issues in doing so.”
- c. April 2023 – “Application for Kansas Board of Pharmacy registration submitted.”
- d. Mid / Late May 2023 – “Technician registration denied.” “I found the letter of denial for registration and the next day Jody came in and reported her registration was denied.” “I indicated I had the letter and that we would need to visit how we would move forward from here.”
- e. June 2023 – “Time simply got away from me and we did not ever have our discussion.”
- f. July 2, 2023 – Respondent began the internal investigation
- g. July 6, 2023 – Thomas indicated to Respondent that “she would likely not seek out national certification.” “Out of courtesy for her, I suggested we have her finish out her week...her last scheduled shift was Saturday, July 8th.”

10. On August 29, 2023, upon request, the Board received an email from Respondent detailing the following employment information for Marsh:

- a. In 2015/2016 MM was moved “to our special packaging department helping fill nursing home/Haag Home Packs”. Respondent noted that Marsh’s registration should have been renewed in 2016 but “her renewal was not completed by our business manager due to an oversight.”
 - b. Respondent indicated this was identified by the business manager in late 2019 “and subsequently I was made aware of the situation although I do recall it was not immediate.” “I simply failed to address and follow-up with her on her national certification plans not did I change her job responsibilities.”
 - c. Marsh left on leave on March 18, 2023. Respondent noted a discussion “has taken place and Marsha is in fact aware that should she decide to return to the pharmacy ... she will not be able to work in a technician position.”
11. On August 29, 2023, the Board received an email from Respondent indicating she was aware of Thomas’ expired technician registration and had continued to let her work as a technician. Respondent admitted she should not have let Thomas perform technician duties when she was not registered as a technician and was aware she was in violation and could be disciplined.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1658, the Board may assess a civil fine not to exceed \$5,000, after notice and an opportunity to be heard, to any registrant for violation of the pharmacy act of the state of Kansas or any other rules or regulations of the state board of pharmacy.
2. Pursuant to K.S.A. 65-1626(bbb), "pharmacy technician" means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication

order and who assists the pharmacist in the performance of pharmacy-related duties, but who does not perform duties restricted to a pharmacist.

3. Pursuant to K.S.A. 65-1627(a)(8), the Board may deny an application or renewal, limit, condition, revoke, suspend or place in a probationary status the license of any pharmacist upon a finding that the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act.

4. Pursuant to K.S.A. 65-1663(a)(1), it shall be unlawful for any person to function as a pharmacy technician in this state unless such person is registered with the Board as a pharmacy technician.

5. Pursuant to K.S.A. 65-1663(i), a pharmacy technician shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the Board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacy technician in the performance of the pharmacy technician's duties.

6. Pursuant to K.S.A. 65-1663(j), every registered pharmacy technician shall display the current registration in that part of the place of business in which such person is engaged in pharmacy technician activities.

7. Pursuant to K.A.R. 68-1-9(a), each pharmacist-in-charge shall develop, supervise, and coordinate all pharmaceutical services performed within the pharmacy to ensure compliance with the Kansas pharmacy act, the state and federal uniform controlled substances act, the state and federal food, drug, and cosmetic act, and all applicable regulations.

8. Pursuant to K.A.R. 68-1-9(c), each pharmacist-in-charge shall be responsible for direct supervision of all pharmacy personnel, for the security of the pharmacy, and for the security of all drugs in the pharmacy.

9. Thomas' pharmacy technician registration expired October 31, 2018. By allowing Thomas to perform the duties of a pharmacy technician from January 4, 2023 to July 7, 2023 without a valid pharmacy technician registration from the Board, Respondent permitted unregistered individual to perform the duties of a pharmacy technician for 26 weeks and failed to provide adequate supervision as the supervising pharmacist and as the pharmacist-in-charge of the Pharmacy in violation of K.S.A. 65-1663 and K.A.R. 68-1-9. Respondent also failed to ensure a valid registration was posted in the pharmacy in violation of K.S.A. 65-1663. This is a basis to place Respondent's License in a probationary status pursuant to K.S.A. 65-1627(a)(8).

10. Marsh's pharmacy technician registration expired October 31, 2016. By allowing Marsh to perform the duties of a pharmacy technician from November 1, 2016 to March 18, 2023 without a valid pharmacy technician registration from the Board, Respondent permitted unregistered individual to perform the duties of a pharmacy technician for more than 6 years and failed to provide adequate supervision as the supervising pharmacist and as the pharmacist-in-charge of the Pharmacy in violation of K.S.A. 65-1663 and K.A.R. 68-1-9. Respondent also failed to ensure a valid registration was posted in the pharmacy in violation of K.S.A. 65-1663. This is a basis to place Respondent's License in a probationary status pursuant to K.S.A. 65-1627(a)(8).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent's Pharmacist License is hereby subject to a 2-year probationary status. The terms of Respondent's probation are as follows:

- Respondent must take and pass the Board PIC exam within 30 days of the date of this Order;
- Respondent must notify the Board of any arrest, criminal charge, or occupational or professional license disciplinary action within 10 days of the date of action;
- Respondent must notify the Board of any change in contact information or employment within 10 days of the change;
- Respondent must respond to the Board's regular check-in requests;
- Respondent must inform employers of the probationary status of their license; and
- Respondent must comply with all rules and regulations of the Pharmacy Practice Act.

In addition, Respondent is ordered to pay a fine of \$12,560 to the Board. However, \$5,560 of the fine shall be suspended and discharged pending successful completion of Respondent's probationary period. Therefore, the remaining \$7,000 fine is due within 30 days from the date of this Order.

NOTICES

The Respondent is hereby notified as follows:

1. The Respondent 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
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

IT IS SO ORDERED.

12/28/2023

Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 28th day of December, 2023 deposit in business mail a copy of the foregoing Amended Summary Order, which is then placed in the United States Mail, postage prepaid, properly addressed to the following:

Amber Haag
118 W Santa Fe
Olpe KS 66865



Kansas Board of Pharmacy Staff