

MAR 31 2004

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
MICHAEL R. LINDER, Respondent)
Kansas License No. 1-112233)

Case No. 00-57-A

FINAL AGENCY ORDER

On March 9, 2004 a hearing was held before the Kansas Board of Pharmacy (the "Board") on the application of Michael R. Linder ("Applicant") for reinstatement of his license to practice Pharmacy in the State of Kansas. As a result of that hearing, the Board makes the following Findings and Conclusions and enters the following Order.

FINDINGS

A. On November 30, 2001 the Board entered a Final Agency Order revoking Applicant's license to practice Pharmacy in the State of Kansas. A copy of that order is attached hereto and the Findings made therein are incorporated herein by reference. That order was not appealed.

B. At the time of the conversions discussed in the Board's November 30, 2001 order, the Applicant was of mature age and an experienced pharmacist.

C. The Applicant admitted that on previous occasions while testifying under oath before the Board he failed to tell the truth.

D. The Applicant testified he is under treatment with a psychiatrist for a disorder diagnosed approximately 6 months before the hearing, but no evidence from the psychiatrist was presented regarding Applicants diagnosis, treatment, prognosis, or fitness to practice pharmacy.

E. The Applicant's testimony indicates that the medications he is currently taking need to be further adjusted to stabilize his moods.

F. The Applicant's testimony indicates that he still has "low phases" and that when he was taking the drugs he converted from his former pharmacy employer he got a euphoric feeling from them. There was no professional testimony indicating Applicant is psychologically capable of resisting the temptation of being exposed to drugs as a pharmacist.

G. Although Applicant indicates he is currently in the Narcotics Anonymous program he indicates he has no sponsor. A sponsor is important to being successful in the program. In July 2002, during his participation in Narcotics Anonymous, the Applicant relapsed with alcohol.

H. The Applicant has not take pharmacy continuing education during the period his license has been revoked. There is no evidence that Applicant has taken meaningful steps during the period his license has been revoked to ensure his continued competency to safely practice pharmacy in the State of Kansas.

CONCLUSIONS

1. To regain his license to practice pharmacy in the State of Kansas, the Applicant has the burden of proof on the following issues: (a) his present moral fitness; (b) his consciousness of the wrongful conduct and disrepute his prior conduct brought the pharmacist profession; (c) the extent of his rehabilitation; (d) the nature and seriousness of his previous conduct; (e) the time elapsed since his previous conduct; (f) his character, maturity, and experience at the time of his previous conduct; and (g) his present competence to practice as a pharmacist.

2. Based upon the Findings of Fact the Board concludes that the Respondent has failed to meet his burden on the issues of his rehabilitation and his present fitness and competence to practice as a pharmacist.

ORDER

The Respondent's application for reinstatement of his license to practice as a pharmacist in the State of Kansas is denied at this time.

IT IS SO ORDERED effective the 9th day of March, 2004.

THE KANSAS PHARMACY BOARD

By:

Mike Hurst, R.Ph., President

NOTICE TO PARTIES


Within fifteen (15) days after service of this Final Agency Order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

Within the time limits established by K.S.A. 77-613, either party may seek judicial review of this 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 Jackson, Room 513
Topeka, KS 66612

THE KANSAS PHARMACY BOARD

By:


Debra Billingsley, Executive Director

CERTIFICATE OF SERVICE

I hereby certify that a genuine copy of this FINAL AGENCY ORDER and NOTICE TO PARTIES was served to the following parties by depositing in the United States mail, postage prepaid the 31 day of March, 2004:

Michael R. Linder
1304 W. 11th
Hutchison, KS 67501

Michael E. Francis

Debra Billingsley, Executive Director