

March 17, 2022

Devin Martinez
4843 NW Rochester Rd
Topeka KS 66617

RE: Case No. 22-063

Dear Mr. Martinez:

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

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Devin Martinez)
)
Registration No. 24-117053)

Case No. 22-063

SUMMARY ORDER

NOW, on this 17th day of March 2022, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Devin Martinez, (“Applicant”), for application for registration as a Kansas pharmacy technician.

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 materials and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order.

FINDINGS OF FACT

1. On January 25, 2022, 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 Applicant’s 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. In conjunction with Applicant's Application, Applicant submitted an S-150 with one sentence indicating Applicant was arrested for DUI in October 2021 and his breathalyzer level was 0.12. Applicant also provided a copy of his court-entered 12-month DUI diversion agreement beginning January 2022.

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)(3), the Board may place in a probationary status the license of any pharmacist who has been found guilty of unprofessional conduct.

3. Pursuant to K.S.A. 65-1626(vvv), unprofessional conduct means conduct likely to deceive or harm the public.

4. Applicant's recent DUI is a basis to place Applicant's registration in a probationary status pursuant to K.S.A. 65-1627(a)(3), as he has just recently started the diversion agreement, has not completed his court requirements and is, therefore, unable to show that he has been sufficiently rehabilitated to warrant the public trust at this time.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application for issuance of pharmacy technician registration is hereby GRANTED subject to a 2-year probationary status. The terms of Applicant's probation are as follows:

- Applicant must continue compliance with the terms of Applicant's court diversion agreement;

- Applicant must notify the Board of any change in Applicant's diversion status within 10 days of the change;
- Applicant must notify the Board of any arrest or criminal charge within 10 days of the date of the arrest or charge;
- Applicant must notify the Board of any change in employment within 10 days of the change and obtain Board approval for the change;
- Applicant must inform employers of the probationary status of Applicant's pharmacy technician registration;
- Applicant must obtain the signature of Applicant's pharmacist-in-charge (PIC) documenting knowledge of the probationary status to the Board; and
- Applicant must comply with all rules and regulations of the Pharmacy Practice Act.

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.

3/17/2022

Date




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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 17th day of March 2022, 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:

Devin Martinez
4843 NW Rochester Rd
Topeka KS 66617



Kansas Board of Pharmacy Staff