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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

October 24, 2022

Jennifer Menser-Roberts
224 W 9th St
Fort Scott KS 66701

RE: Case No. 22-073

Dear Ms. Menser-Roberts:

Enclosed you will find a Final Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety. In addition, a civil fine has been assessed totaling \$200, which has already been paid by Respondent.

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

Case No. 22-073

Jennifer Menser-Roberts

FINAL ORDER

Decision

The Kansas Board of Pharmacy (Board) has carefully considered the evidence presented and reviewed the applicable statutes, regulations and policies, and hereby approves the application for a pharmacy technician registration number to be issued to Jennifer Menser-Roberts (Menser-Roberts), upon the terms and conditions set forth hereinbelow.

Statement of Case

This matter comes on for hearing on August 25, 2022 before the Board upon the request by Menser-Roberts for an administrative hearing after the issuance of Summary Order of Denial by the Board on May 20, 2022.

Appearing for the Board were: Jonathan Brunswig, PharmD, President; and members, Bill Walden, R.Ph; Tiffany Strohmeier, PharmD; Terica Gatewood, PharmD; Andrew Truong, PharmD; Erick Axcell, PharmD; and, Lucinda Noches Talbert, Public Member.

Brenda Head appeared as the Board's disciplinary counsel.

Menser-Roberts appeared in person and without an attorney. Beth Arnold and Vincent Ratcliff appeared with and on behalf of Menser-Roberts.

Loren F. Snell, Jr., Administrative Law Judge, was appointed and served as the Presiding Officer over the evidentiary hearing.

Evidentiary Rulings

The Board offered Exhibits 1 through 13 for admission as evidence. Menser-Roberts had no objection to admission of Exhibits 1 through 13. Board's Exhibits 1 through 13 were admitted.

Menser-Roberts offered Exhibits A through E for admission as evidence. Disciplinary counsel for the Board had no objection to admission of Exhibits A through E. Exhibits A through E were admitted.

Findings of Fact

1. Menser-Roberts was issued pharmacy technician registration number 24-100276 by the Board on October 17, 2017.
2. Menser-Roberts's pharmacy technician registration was revoked by the Board by Summary Order of Revocation issued on April 27, 2018. (Exhibit 1). Menser-Roberts's pharmacy technician registration was revoked because Menser-Roberts had failed to respond to a request from the Board for records concerning her compliance with the continuing education requirements associated with her registration.
3. On June 19, 2019, a pharmacy technician registration was issued to Menser-Roberts.
4. On February 5, 2021 the Board learned of a January 2021 domestic battery charge that had been made against Menser-Roberts.
5. On February 10, 2021 the Board issued a letter to Menser-Roberts requesting a completed Personal History Form S-150 (S-150), as well as copies of court documents concerning the criminal charges. (Exhibit 2).
6. On March 15, 2021, having received no response from Menser-Roberts, a second letter was sent requesting the S-150 and court documents. (Exhibit 3).
7. On March 29, 2021 Menser-Roberts submitted a completed S-150 but failed to include the requested court documents. (Exhibit 4).
8. On July 30, 2021 the Board sent a Final Notice to Menser-Roberts requesting that she submit the court documents associated with her January 2021 domestic battery charge(s). (Exhibit 5).
9. On October 31, 2021 Menser-Roberts's pharmacy technician registration expired because Menser-Roberts had not sought renewal.
10. On January 5, 2022 the Board received an application from Menser-Roberts seeking a pharmacy technician registration. (Exhibit 6). On the application, Menser-Roberts was asked if she had been convicted of a criminal offense or is there a criminal charge now pending against you in any state or federal court whether or not a sentence was imposed, suspended, or diverted. Menser-Roberts responded by marking "Yes." Menser-Roberts was also asked "Has there been a denial of initial or renewal application, revocation, suspension, voluntary surrender, or any other disciplinary action taken by the State of Kansas or any other jurisdiction against any professional or occupational license or registration held by you?" Menser-Roberts responded by answering "No."

11. Menser-Roberts included a S-150 that referenced the S-150 that was submitted to the Board on March 29, 2021. No additional information was provided by Menser-Roberts. Menser-Roberts also included a copy of her PTCB (Pharmacy Technician Certification Board) certification.

12. On January 7, 2022 the Board sent a letter to Menser-Roberts requesting a “more detailed explanation regarding [the January 2021 domestic battery offense], as well as certified copies of the court pleadings from the case.” (Exhibit 7).

13. On January 28, 2022 Menser-Roberts submitted another S-150. (Exhibit 8). Menser-Roberts explained that she had faxed the information to the Board previously. Menser-Roberts stated that the charges were dismissed when she went to court. Menser-Roberts explained she had taken alcohol classes and “have not been in anymore trouble with Law enforcement.” Menser-Roberts included a copy of a one (1) page motion and order from the City of Pittsburg Municipal Court, case number 2100000028, dismissing the domestic battery charge.

14. On May 20, 2022 the Board issued a Summary Order of Denial, denying Menser-Roberts’s application for a pharmacy technician registration due to Menser-Roberts’s failure to submit the requested documentation. (Exhibit 9).

15. On June 1, 2022 the Board received a letter from Menser-Roberts requesting a hearing regarding the Summary Order of Denial.

16. Menser-Roberts testified before the Board regarding the failure to submit the requested documentation. Menser-Roberts testified that she had not received the letters requesting additional information because they were sent to an old address that she was no longer at. Menser-Roberts also testified she was unaware she was required to send a change of address to the Board and had not reported her new address to the Board.

17. There was email correspondence between the Board and Menser-Roberts in which the Board clarified that additional information was required of Menser-Roberts before her application could be processed. (Exhibit E)

Applicable Statutes, Regulations and Policies

“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.”¹

“The board may revoke, suspend, place in a probationary status or deny an application or renewal of any license of any pharmacist upon a finding that: (8) 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

¹ K.S.A. 65-1663(f)(1).

board pursuant to the provisions of such pharmacy act; or (15) the licensee has failed to furnish the board, its investigators or its representatives any information legally requested by the board.”²

Decision

The Board considered that Menser-Roberts had responded incorrectly on her application and failed to submit the requested documentation regarding her criminal history. The Board also considered that Menser-Roberts had failed to update her address with the Board, and on multiple occasions had failed to respond to the requests for information sent by the Board.

The Board considered that while the criminal charges were filed, the matter was dismissed and not prosecuted. It was also noted that Menser-Roberts had not had any other incidents since the criminal charges in January of 2021 and that she had support from her employer.

The Board voted six (6) in favor, zero (0) opposed and one (1) abstention to approve Menser-Roberts’ application for a pharmacy technician registration. Approval was granted subject to Menser-Roberts being assessed a disciplinary fine of \$200 for failing to respond to a request of the Board.

Oct 20, 2022

Date

Dr. Jonathan W. Brunswig, PharmD

Dr. Jonathan W. Brunswig, PharmD (Oct 20, 2022 16:08 CDT)

Jonathan Brunswig, PharmD, President
Kansas Board of Pharmacy

² K.S.A. 65-1627(a).

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.³
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

³ K.S.A. 77-529.

Certificate of Service

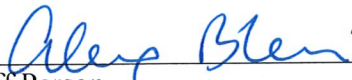
On October 24, 2022, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Jennifer Menser-Roberts
224 W. 9th St.
Fort Scott, KS 66701

Brenda Head
Frieden, Unrein & 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