

**STATE OF KANSAS
BEFORE THE KANSAS STATE BOARD OF PHARMACY**

Filed

MAY 04 2010
KANSAS STATE
Board of Pharmacy

In the Matter of)
)
Donald K. Pohl, R.Ph.)
Kansas License No. 1-10652)
_____)

Case No. 08-51

PETITION AND NOTICE OF INTENT TO INDEFINITELY SUSPEND LICENSE

COMES NOW the Kansas State Board of Pharmacy (“Board” or “Plaintiff”) and reviews the file on Donald K. Pohl, R.Ph, (“Licensee” or “Defendant”).

THEREUPON, being duly advised in the matter, the Board finds that:

GENERAL

1. The Board is charged with the administration of the Kansas Pharmacy Act (K.S.A. 65-1626, *et seq.*) and with the enforcement of the rules and regulations promulgated thereunder (K.A.R. 68-1-1a *et seq.*). Further, the Board is authorized to initiate proceedings to suspend or revoke any license, registration, or permit issued by the Board under provisions of the pharmacy act of the State of Kansas pursuant to K.S.A. 65-1627a. The Licensee is presently authorized to engage in the practice of pharmacy by the Board having been issued License No. 1-10652. Mr. Pohl currently resides at 2407 Holly Lane SE, Olympia, Washington, 98501. Licensee is subject to all laws and regulations pertaining to the practice of pharmacy administered by the Board.

2. Pursuant to laws and regulations pertaining to the practice of pharmacy, the Board is authorized to conduct hearings, summary proceedings, and emergency proceedings under the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.* Such proceedings may result in suspension, revocation, and other disciplinary actions affecting Licensee’s ability to work as a Licensed Pharmacist in the State of Kansas.

3. K.S.A. 65-1627(a)(12) provides that:

(a) The board may revoke, suspend, place in a probationary status or deny a renewal of any license of any pharmacist upon a finding that: (12) the licensee has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;

4. K.S.A. 65-1627(g) provides that:

(g) Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

INFORMATION WHICH EVIDENCES THAT THE LICENSE OF DONALD K. POHL
TO PRACTICE PHARMACY IN THE STATE OF KANSAS SHOULD BE
INDEFINITELY SUSPENDED

5. On June 18, 2009, Licensee was indefinitely suspended from the practice of pharmacy in the State of Washington by order of the Washington State Board of Pharmacy ("Washington Disciplinary Action"). Under the terms and conditions of the Washington Disciplinary Action, Licensee may not request reinstatement for a minimum of five years and only after successfully completing the requirements of a five year contract with the Washington State Recovery Assistance Program for Pharmacy ("WRAPP"). A copy of the Washington State Board of Pharmacy "Stipulated Findings of Fact, Conclusions of Law and Agreed Order" in Case No. M2008-117870 is contained in the Licensee's file and it is attached hereto and incorporated herein as if more fully set forth.

6. Prior to the Washington Disciplinary Action, Licensee had entered into an informal resolution of a matter which required him to remain clean and sober during a probationary period. This stipulation was made by Licensee on June 26, 2006. However, Licensee self-reported a relapse of substance abuse which began in December of 2006.

7. On April 29, 2007, Licensee diverted for his personal use sixty-one (61) tablets of a Schedule IV Controlled Substance from his employing pharmacy. The value of the medication Licensee diverted was approximately \$558.

8. On May 5, 2007, Licensee filled his own prescription for a Schedule IV Controlled Substance and charged himself approximately \$80 less than the retail price. This was done without the approval of his employing pharmacy.

9. On May 10, 2007, Licensee diverted for his personal use eleven (11) tablets of a Schedule IV Controlled Substance from his employing pharmacy. The value of the medication Licensee diverted was approximately \$126.

10. On August 14, 2007, Licensee entered into a drug court agreement in the State of Washington, Thurston County Superior Court, Docket No. 07-1-00914-4 to avoid formal criminal charges of Second Degree Theft, a Class C Felony in the State of Washington. Licensee successfully completed drug court in the Thurston County Superior Court on November 21, 2008. Therefore, theft charges were not filed against the Licensee.

11. On April 9, 2010, Licensee signed a proposed Settlement Agreement and Final Order ("Settlement Agreement") to be approved by the Kansas State Board of Pharmacy. In the proposed Settlement Agreement, Licensee agreed to enter into a five year contract with the Kansas Committee on Impaired Pharmacy Practice ("CIPP") sponsored by the Kansas Pharmacists Association. The CIPP was to provide treatment and monitoring of the Licensee in cooperation with the Washington State Recovery Assistance Program for Pharmacy ("WRAPP"). The parties intended to present the proposed Settlement Agreement to the Kansas State Board of Pharmacy for review and approval at its next meeting on June 9, 2010.

12. On April 26, 2010, the Board's Director received a letter from Licensee informing her that he has decided not to participate in CIPP since he is permanently

retiring from the practice of pharmacy. Licensee has a valid license from the Board to practice pharmacy until June 30, 2010. Without a program of treatment, support, and monitoring in place, it is necessary to proceed with an action to indefinitely suspend Licensee's license to practice pharmacy.

13. The Board appoints William C. Rein, Attorney at Law, to serve on its behalf as Disciplinary Counsel in this case. Mr. Rein is authorized to work at his home address:

William C. Rein
1831 SE 43rd Terrace
Topeka, KS 66609
(785) 266-3790 Personal
(785) 224-5307 Cell
Email: wrein@cox.net

14. Mr. Rein is ordered to appear before the Board at all administrative dockets upon which this case is scheduled unless specifically allowed to appear by telephone upon permission granted by the Board or its Executive Director.

WHEREFORE, pursuant to K.S.A. 65-1627(a)(12), K.S.A. 65-1627a, and K.S.A. 77-501 *et seq*, and for the reasons stated above, petition and notice is hereby given of the Board's intent to indefinitely suspend the license of Donald K. Pohl to practice pharmacy in the State of Kansas or anywhere else a State of Kansas license is necessary for him to practice pharmacy.

RIGHT TO HEARING

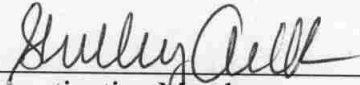
Licensee may request a hearing in accordance with the provisions of the Kansas Administrative Procedure Act. A written request for a hearing must be filed within fifteen (15) days of service of this petition and notice as prescribed by K.S.A. 77-542(a).

The request must be submitted to the following person at the address shown. Failure to submit a timely request will result in a waiver of Licensee's right to a hearing, and this petition and notice will become a final order indefinitely suspending Licensee's license to practice pharmacy in the State of Kansas or anywhere else a State of Kansas license is necessary for him to practice pharmacy.

Debra Billingsley
Executive Director
Kansas State Board of Pharmacy
Landon State Office Building
900 SW Jackson Street- Suite 560
Topeka, KS 66612-1230

IT IS SO ORDERED.

Dated this 4 day of may, 2010.


Investigative Member
Kansas State Board of Pharmacy
Landon State Office Building
900 SW Jackson Street- Suite 560
Topeka, KS 66612-1230
(785) 296-4056 Main Office
(785) 296-8420 FAX

CERTIFICATE OF SERVICE

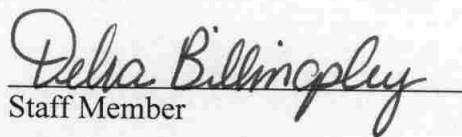
I hereby certify that on this 4 day of may, 2010, I deposited a true and correct copy of the above and forgoing "Petition and Notice of Intent to Indefinitely Suspend License" in the United States Mail, postage prepaid, and addressed to:

Donald K. Pohl, R.Ph.
2407 Holly Lane SE
Olympia, WA 98501

William C. Rein KS # 09579
Disciplinary Counsel
Kansas State Board of Pharmacy

Direct Mailing Address:

William C. Rein
1831 SE 43rd Terrace
Topeka, KS 66609
(785) 266-3790


Staff Member