

STATE OF KANSAS



BOARD OF PHARMACY
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GOVERNOR JEFF COLYER, M.D.
ALEXANDRA BLASI, J.D., M.B.A., EXECUTIVE SECRETARY

December 13, 2018

SCOTT SMILEY
20324 W. 94TH TERR.
LENEXA KS 66220

RE: *In the Matter of Scott Smiley*
Case No. 18-767

Dear Scott Smiley:

The Kansas State Board of Pharmacy has concluded its audit of continuing education for your recent renewal and determined that you are noncompliant. Please read the enclosed Summary Order in its entirety, which includes assessment of a fine and mandatory additional continuing education. This discipline will be reported to the National Association of Boards of Pharmacy and all future license verifications will reflect this discipline.

If you dispute the facts or legal basis for the action and wish to request a hearing regarding this matter, please reference the section titled "Notices" in the Order and promptly take action. Please be aware that if you request a hearing and the Board prevails, you will be required to pay the costs of the hearing.

If you have questions, please email pharmacy@ks.gov and reference your name and case number.

Sincerely,

Kansas State Board of Pharmacy

enc: Summary Order

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of)	
the Renewal Application of)	
)	Case No. 18-767
Scott Smiley)	
License No. 1-11992)	
_____)	

SUMMARY ORDER

NOW on December 13, 2018, comes before the Kansas State Board of Pharmacy through its Executive Secretary (hereinafter referred to as the "Board") the matter of the license renewal application of Scott Smiley (hereinafter referred to as "Respondent") to engage in the practice of pharmacy in the state of Kansas.

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 provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board enters this Summary Order in the above-captioned matter. After reviewing the renewal materials and being otherwise duly advised in the premises, the Board makes the following findings, conclusions, and order:

FINDINGS OF FACT

1. On or around 6/30/2018, Respondent submitted a renewal application to engage in the practice of pharmacy in the State of Kansas.
2. In the renewal application, Respondent requested to renew the license on active status.
3. At the end of the renewal application, Respondent agreed to the following statement prior to submitting the completed renewal application: "I hereby attest that I have completed all continuing education hours required by law to renew my license."

4. Respondent's renewal application was selected for an audit to provide proof of Respondent's continuing education certificates or a transcript of completion of required hours.

5. Respondent provided proof of 28.25 hours of continuing education to renew Respondent's pharmacy license.

6. Respondent was not eligible for obtaining prorated hours since Respondent was continuously licensed to practice for the entire biennial licensure period.

CONCLUSIONS OF LAW

7. Pursuant to K.S.A. 65-1627(a)(9), the Board may deny, revoke, suspend, or place on probation any pharmacist license upon a finding that Respondent failed to comply with the continuing education requirements of the Board for license renewal.

8. Pursuant to K.A.R. 68-1-1b, 30 hours of continuing education shall be required for renewal of a pharmacist license during each licensure period, which must be obtained in the two-year licensure period ending on the June 30 expiration date of each license.

9. Pursuant to K.S.A. 65-1627(a)(1), the Board may deny, revoke, suspend, or place on probation any pharmacist license upon a finding that Respondent renewed or attempted to renew a license by false means, including misrepresentation.

10. Pursuant to K.S.A. 65-1658, in addition to any other penalty imposed by the Pharmacy Practice Act, the Board may assess a civil fine for a violation of K.S.A. 65-1627(a), in an amount not to exceed \$5,000 for each violation.

11. K.S.A. 77-511(a)(2)(A) of the Kansas Administrative Procedure Act authorizes the use of summary proceedings by a state agency if the use of summary proceedings does not violate any provision of law, the protection of the public interest does not require the state agency to give notice and an opportunity to participate to persons other than the parties, and the state agency believes in good faith, after investigation of the facts, that the allegations will be supported to the

applicable standard of proof.

12. Respondent was required to provide proof of completion of 30 hours of continuing education earned between July 1, 2016 and June 30, 2018.

13. By only providing proof of completion of 28.25 hours of continuing education, Respondent failed to complete the required 30 hours of continuing education for renewal of Respondent's license, in violation of K.S.A. 65-1627(a)(9).

14. Respondent falsely attested on the renewal application that Respondent had completed all continuing education hours required by law to renew Respondent's license, in violation of K.S.A. 65-1627(a)(1). Though material, the Board makes no finding about whether Respondent's misrepresentation was intentional.

15. The role of the Board is to protect the citizens of Kansas. The Board regards the failure to comply with the continuing education requirements for licensure as a serious issue. Given the number of home-study, web-based, and live programs available, achieving the 30 hours required each biennial renewal period cannot be viewed as a burden. Without continued investment in pharmacy education, the vision of quality pharmacy providers in Kansas will not be met. In order to provide safe, effective, and high quality healthcare for Kansas patients, the practice of pharmacy requires lifelong improvement and education.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board orders the following:

For Respondent's violation of K.S.A. 65-1627(a)(1) and (9), a fine is assessed in the amount of \$100 for each hour of missing or falsified continuing education, with a minimum of \$500.

Therefore, Respondent shall submit a check or money order in the amount of \$500 to the Board within 30 days of the date of this Order.

Furthermore, an additional four hours of continuing education will be required for each hour

of missing or falsified continuing education. **Respondent shall complete 7 hours of additional continuing education and provide proof of completion to the Board within 30 days of the date of this Order.** Completion of these hours shall not count toward Respondent's next continuing education renewal requirement.

NOTICES

Respondent is hereby notified as follows:

1. 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 15 days after service of this Order. If the outcome of the hearing is adverse to Respondent, costs of the proceedings shall be charged to Respondent.

2. If a hearing is not requested as described above, the Summary Order shall become a final order of the Board, effective upon the expiration of the time to request a hearing.

3. Within 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 K.S.A. 77-613. 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.

December 13, 2018

Date

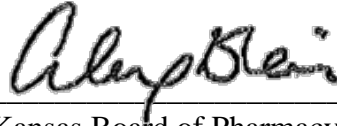


Executive Secretary

CERTIFICATE OF SERVICE

I hereby certify that I did, on December 13, 2018, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order, properly addressed to the following:

SCOTT SMILEY
20324 W. 94TH TERR.
LENEXA KS 66220



Kansas Board of Pharmacy Staff