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DEC 28 2018

KANSAS STATE
BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of
Bianca Stewart,

Case No. 18-029

Permit No. 14-104803

FINAL ORDER

Statement of Case

This matter comes before the Kansas Board of Pharmacy (Board) on the Summary Order of Denial of the respondent's, Bianca Stewart (Stewart), application for registration as a Kansas pharmacy technician.

The hearing in this matter was held on November 27, 2018. Appearing for the Board were: John Worden, PharmD, President; and members, Jonathan Brunswig, PharmD; Robert Haneke, PharmD; Cheri Pugh, Public Member, Chad Ullom, R.Ph., and Bill Walden, R.Ph.

Randall J. Forbes appeared as the Board's disciplinary counsel.

Stewart appeared in person and *pro se*.

Findings of Fact

1. On or about January 12, 2018 the Board received Stewart's application for registration as a pharmacy technician in the State of Kansas.
2. In completing the registration application, Stewart responded to the questions "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” and “Have you ever been charged with or convicted of (includes plea of guilty or no contest) or charged with a violation of any federal or state drug law(s) or rule(s) whether or not a sentence was imposed, suspended or diverted?” with “No.”

3. On January 18, 2018 the Board received additional materials indicating that Stewart had the following offenses on her criminal history:

- a. Felony burglary from 2001;
- b. Driving while suspended from 2004;
- c. Driving while revoked (license) from 2005;
- d. Felony possession of a controlled substance from 2008;
- e. Driving while revoked (license) and without insurance from 2008;
- f. Felony driving while revoked (license) from 2009;
- g. Felony driving while revoked (license) from 2010;
- h. Felony driving while revoked (license) from 2013;
- i. Assault from 2013;
- j. Shoplifting from 2014;
- k. Warrant arrest from 2016;
- l. Vehicle registration violation from 2016; and,
- m. Driving while revoked (license) from 2017.

4. On January 23, 2018 the Board requested that Stewart submit a S-150 Personal History Form explaining her criminal history. Stewart provided the S-150 Personal History Form on March 2, 2018. On April 5, 2018 the Board sent an email to Stewart requesting additional detail about her criminal history. Stewart sent an additional S-150 Personal History Form on May 7, 2018 that included multiple handwritten statements and various supporting documents.

5. On August 14, 2018 the Board issued a Summary Order denying Stewart's application for registration as a pharmacy technician in the State of Kansas and a copy was mailed to Stewart. The basis for the summary order was the failure to disclose her criminal history on her application, the unprofessional conduct demonstrated by her numerous arrests and offenses, and the dangerous pattern of conduct demonstrated by her disregard for the law.

6. On August 18, 2018 Stewart submitted a letter to the Board requesting an appeal of the denial of her application for a pharmacy technician license.

7. Stewart testified that she had discussed her criminal history and the circumstances of her offenses with an individual responsible for setting her up for fingerprinting, presumably from her employer Optum Rx, and was told to respond "No." Stewart testified, and had made the same statement in her S-150 Personal History Form, that she had no intention of misleading the Board regarding her criminal history.

8. Stewart testified before the Board as to each of the offenses that were reported on her criminal history. Specifically, Stewart denied any knowledge of the 2001

burglary and 2008 possession of a controlled substance allegations. Stewart acknowledged the multitude of traffic offenses. She also acknowledged the assault charge from 2013 and provided an explanation of the circumstances leading to the charge and conviction. Stewart also explained the circumstances that led to her shoplifting offense in 2014.

9. Stewart is currently employed as a pharmacy technician at Optum Rx and submitted a letter of support provided by supervisor.

Applicable Law
and
Discussion

1. According to K.S.A. 65-1663(f)(1), “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. K.S.A. 65-1627(a)(1) permits the Board to deny an application if “the applicant has attempted to obtain the license “by false or fraudulent means, including misrepresentation of a material fact.”

3. K.S.A. 65-1267(a)(3) permits the Board to deny an application if “the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency.”

4. In considering this matter the Board noted that while Stewart had numerous arrests listed on her criminal history, there were offenses listed for which it appeared that she was not actually charged and/or convicted. The Board also recognized that Stewart was

putting forth tremendous effort to obtain her pharmacy technician registration. Considering her criminal history, the Board was unwilling to give Stewart a pharmacy technician registration without restrictions; however, the Board was willing to grant a registration with certain limitations or restrictions.

Order


Based on the foregoing, on a vote of 4-2 the Board grants Stewart's application for a pharmacy technician registration, subject to the following restrictions:

1. The registration is granted subject to two (2) year period of probation.
2. Stewart must notify the Board in the event that she is terminated by or chooses to discontinue her employment with Optum Rx.
3. Any change in employment must be approved by the Board.
4. Stewart must avoid any and all legal infractions.
5. Stewart must notify the Board of any legal infractions within ten (10) days of the infraction.

Failure to uphold any of the above-stated conditions will result in revocation of Stewart's State of Kansas pharmacy technician registration

IT IS SO ORDERED.

12-26-18
Date


John Worden, PharmD, President
Kansas Board of Pharmacy

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 pursuant to K.S.A. 77-529.
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

CERTIFICATE OF SERVICE

On December 28, 2018, a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Bianca Stewart
5610 Highland
Kansas City, MO 64110

Randall J. Forbes
Frieden, Unrein & Forbes
1414 SW Ashworth Pl, Ste. 201
Topeka, KS 66604

and hand-delivered to:

Alexandra Blasi
Executive Secretary
Kansas State Board of Pharmacy
800 SW Jackson #1414
Topeka, KS 66612-1244

Jaimie Mae
Staff Person