

July 14, 2021

ETHAN BERLAND
2300 N 191st ST CIR W
COLWICH, KS 67030

RE: Case No. 21-068

Dear Mr. Berland:

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)
)
Ethan Berland)
)
Registration No. 24-114331)

Case No. 21-068

SUMMARY ORDER

NOW, on this 14th day of July 2021, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Ethan Berland, (“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 March 16, 2021, 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 his 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. On his Form S-150, Applicant disclosed a February 2021 misdemeanor possession of marijuana charge, for which he noted he is currently serving diversion. Applicant provided no court documents to support this charge or its outcome.

4. On March 25, 2021, the Board mailed a letter to Applicant's address of record requesting certified copies of the court pleadings from the case.

5. On or about April 2, 2021, the Board received from Applicant a one-page court record which did not include his diversion agreement and was therefore deemed insufficient.

6. On April 9, 2021, the Board emailed to Applicant a request for the full diversion agreement and the initial charges, as well as a more detailed Form S-150.

7. On April 14, the Board received the requested documentation. Applicant's court records and Form S-150 detailed that, for the charges of possession of marijuana and possession of drug paraphernalia, he is serving diversion until March 2, 2022. Applicant noted that he made a stupid decision in hanging with a bad crowd, was struggling with mental health, and has no plan to return to substance use, stating he deserves better. Applicant upholds that he is currently undergoing therapy and medical treatment to address the underlying mental struggles.

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)(2), the Board may place in a probationary status the license of any pharmacist upon a finding that the licensee has been convicted of any felony

or misdemeanor of gross immorality or moral turpitude, and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust.

3. 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.

4. Pursuant to K.S.A. 65-1626(uuu), unprofessional conduct includes conduct likely to harm the public.

5. Applicant's possession diversion case is a basis to place any registration granted to Applicant in a probationary status pursuant to K.S.A. 65-1627(a)(2), as he is still under the court diversion agreement, still seeking therapy, and still awaiting the outcome of his offense, facts which each render Applicant unable to show that he has been sufficiently rehabilitated to warrant the public trust at this time.

6. Applicant's possession incident, recent in nature and concerning illicit drugs, is unprofessional conduct and a basis to place any registration granted to Applicant in a probationary status pursuant to K.S.A. 65-1627(a)(3), as the potential for endangering the public from a position of access within the pharmacy setting may place the community at risk.

7. To prevent harm, the issuance of any registration to Applicant should be carefully supervised and scrutinized to ensure protection of the public.

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 his court diversion agreement, as well as any future-imposed court requirements;

- Applicant must notify the Board of any change in his diversion or court 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 his pharmacy technician registration;
- Applicant must obtain the signature of his pharmacist-in-charge (PIC) documenting knowledge of her 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.

7/14/2021

Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 14th day of July 2021, 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:

ETHAN BERLAND
2300 N 191st ST, CIR W
COLWICH, KS 67030



Kansas Board of Pharmacy Staff