

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
JESSICA BRASHEAR)
)
_____)

Case No. 16-002

SUMMARY ORDER OF DENIAL

NOW on this 13th day of January, 2016, comes before the Kansas Board of Pharmacy (the "Board"), through its Investigation Member, the application of Jessica Brashear (the "Applicant") 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 Investigation Member enters this Summary Order of Denial in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order.

FINDINGS OF FACT

For purposes of this order, the Board's Investigative Member makes the following findings of fact:

1. On November 2, 2015, the Board received Applicant's application for registration as a pharmacy technician in the State of Kansas ("Applicant's Application").
2. As part of Applicant's Application she answered "Yes" to the question: "Have you ever been cited, charged with, or convicted of the commission of any crime; offense; or violation of the law in any state or by the federal government, even if those charges were dismissed, suspended, diverted, or expunged?" The application form directs that if the applicant

answers yes, the applicant “must provide a notarized written detailed explanation of the circumstances.”

3. As part of Applicant’s Application, she answered “No” to the question: “Have you been treated for a drug or alcohol addiction or participated in a rehabilitation program in the last 5 years?”

4. Applicant disclosed the following charges on Applicant’s Application:

- a. July 1998 – Applicant received a DUI (Driving under the influence) after driving into a sobriety check;
- b. November 1998 – Applicant reports she switched places with the driver of a vehicle following an accident because the driver had been drinking. Applicant attempted to drive the vehicle to a gas station and was pulled over and received a second DUI.
- c. November 2002 – Applicant was in a domestic dispute with her ex-husband and she pushed her ex-husband. Applicant was arrested, but indicates the case was dismissed in May 2007 and June 2007; and
- d. January 2015 – Applicant received a third DUI (a felony) after drinking three beers and turning left at a red light.

5. The background report provided to the Board by the Kansas Bureau of Investigation reports the following criminal activity for Applicant:

- a. July 1998 – Applicant was arrested for DUI and a traffic offense. In December 1998, Applicant was convicted of DUI and sentenced to probation for a period of one year and fined;
- b. November 1998 – Applicant was arrested for DUI;

- c. November 2002 – Applicant was arrested for Battery;
- d. May 2007 – Applicant was arrested for DUI;
- e. July 2007 – Applicant was arrested for DUI, Speeding, and Refusing a breathalyzer; and
- f. January 2015 - Applicant was arrested for DUI. In September 2015, Applicant was convicted of the charge and sentenced to probation for a period of one year, fined, and ordered to complete alcohol/drug evaluation, education, and treatment.

6. In response to a November 18, 2015 request from a Board representative, Applicant submitted to the Board copies of court pleadings for the January 2015 DUI case. The court-ordered probation began on September 22, 2015 and is projected to conclude on September 22, 2016. Among other conditions imposed by the court, Applicant must complete drug and/or alcohol evaluation, education, and treatment and comply with monitoring requirements.

7. While Applicant did disclose some of her criminal charges, she failed to disclose her complete criminal history.

8. Applicant also failed to disclose that she was currently participating in a drug or alcohol addiction or rehabilitation program.

9. As part of Applicant's Application, she certified that the information provided was true, correct and complete and that she understood that withholding relevant information was grounds for denying her application.

CONCLUSIONS OF LAW

10. 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.

11. That the Board may take action against the license of a pharmacist for unprofessional conduct or professional incompetency as set forth in K.S.A. 65-1627(a)(3).

12. That K.S.A. 65-1626(ccc)(1) defines unprofessional conduct to include fraud in securing a registration.

13. That pursuant to K.S.A. 65-1627(a)(1), the Board may take action against the license of a pharmacist if a license was obtained by fraudulent means.

14. Applicant's failure to disclose her complete criminal history and/or her participation in an alcohol or drug addiction or rehabilitation program identified in paragraph 5 above is an attempt to obtain a registration by fraud and is a basis to deny Applicant's Application.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application is hereby DENIED.

NOTICES

Applicant is hereby notified as follows:

15. 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.

16. If a hearing is not requested as described above, the Order denying Applicant's Registration as a pharmacy technician shall become a final order of the Board, effective upon the expiration of the time to request a hearing.


17. 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.

18. 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.


1-13-16
Date


Michael Lonergan, R.Ph.
Investigation Member
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 19th day of January, 2016, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order of Denial, properly addressed to the following:

JESSICA BRASHEAR
1232 GRANADA DR
RAYMORE MO 64083



Kansas Board of Pharmacy Staff