

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Dianne Buel)
)
Registration No. 1-101167)

Case No. 18-539A

SUMMARY ORDER

NOW on this 1 day of February, 2019 comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Dianne Buel (1-101167) ("Respondent").

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 investigation materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. The Board has previously issued Respondent Registration No. 1-101167 which entitles Respondent to practice as a pharmacist in the State of Kansas ("Respondent's Registration").
2. On or about July 9, 2018, the Board received notification from Respondent's employer, Walmart Pharmacy #5180, that it had terminated Respondent's employment on July 2, 2018 for "gross misconduct/integrity" in allowing an individual without a pharmacy technician registration to perform technician duties.

3. On or about October 31, 2018, a Board Inspector investigated the report and determined Respondent was the Pharmacist in Charge (PIC) at the time the pharmacy employee was allowed to perform technician duties without a pharmacy technician registration.

4. Upon investigation, the Board Inspector determined the pharmacy employee was allowed to perform pharmacy technician duties in the pharmacy for ten (10) days.

5. Upon investigation, the Board Inspector determined that Respondent supervised the pharmacy employee performing pharmacy technician duties for four (4) days.

CONCLUSIONS OF LAW

6. Pursuant to K.S.A. 65-1658, the Board may assess a civil fine not to exceed \$5,000, after notice and an opportunity to be heard, to any registrant for violation of the pharmacy act of the state of Kansas or any other rules or regulations of the state board of pharmacy.

7. Pursuant to K.A.R. 68-7-12(a), each pharmacist-in-charge shall develop, supervise, and coordinate all pharmaceutical services carried on within the pharmacy to ensure compliance with the Kansas pharmacy act, the Kansas uniform controlled substances, federal drug laws, and all applicable regulations.

8. Pursuant to K.A.R. 68-7-12(b)(1), the pharmacist-in-charge shall designate the person or persons functioning as pharmacy technicians.

9. Pursuant to K.A.R. 68-7-12(b)(3), the pharmacist-in-charge shall document the procedural steps taken by the pharmacist-in-charge to limit the functions of all personnel to their respective pharmacy work functions.

10. Pursuant to K.A.R. 68-7-12b(c)(4), as soon as possible after the discovery of the incident, the pharmacist shall prepare a report containing a pharmacist's description of the incident.

11. Pursuant to K.A.R. 68-7-12b(d), the preparation of an incident report that meets the requirements of this regulation shall be the responsibility of each pharmacist involved in the incident and the pharmacist-in-charge.

12. Pursuant to K.S.A. 65-1663(i), it shall be the responsibility of the supervising pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the Board.

13. Respondent violated K.A.R. 68-7-12(a) when she failed to ensure compliance of all pharmaceutical services with the Kansas Pharmacy Act.

14. Respondent violated K.A.R. 68-7-12(b)(1) when she allowed a person who was not registered as a pharmacy technician to perform the duties of a pharmacy technician.

15. Respondent violated K.A.R. 68-7-12(b)(3) when she failed to document the procedural steps taken by her to limit the functions of all personnel to their respective pharmacy work functions.

16. Respondent violated K.A.R. 68-7-12(b)(c)(4) and K.A.R. 68-7-12b(d) when she failed to ensure that an incident report meeting the regulatory requirements was prepared as soon as possible following the incident.

17. Respondent violated K.S.A. 65-1663(i) when she allowed a pharmacy employee who was not registered as a pharmacy technician to perform the duties of a pharmacy technician, and thus failed to ensure that the pharmacy technician was in compliance with the applicable rules and regulations of the Board.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Respondent is ordered to pay a fine to the Board. A violation of K.A.R. 68-7-12(a) warrants a fine of \$200.00. A violation of K.A.R. 68-7-12(b)(1) warrants a fine of \$200.00. A violation of K.A.R. 68-7-12(b)(3) warrants a fine of \$200.00. A violation of K.A.R. 68-7-12b(c)(4) warrants a fine of \$200.00. A violation of K.A.R. 68-7-12b(d) warrants a fine of \$200.00. A violation of K.S.A. 65-1663(i) warrants a fine of \$800.00. Respondent has thirty (30) days from the date of this order to pay the full \$1,800.00.

NOTICES

The Respondent is hereby notified as follows:

1. The 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 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
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

Matter of Dianne Buel, No. 18-539A (Kan. Bd. of Pharmacy)

SUMMARY ORDER

Page 4 of 6

IT IS SO ORDERED.

2/1/19
Date

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

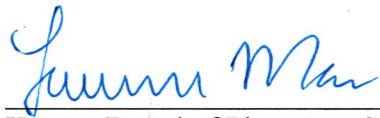
CERTIFICATE OF SERVICE

I hereby certify that I did, on the 1 day of February, 2019 deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order, properly addressed to the following:

Dianne Buel
19835 Canterbury St
Stilwell, KS 66212

and the original hand delivered to:

Alexandra Blasi
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Ste. 1414
Topeka, KS 66612

A handwritten signature in blue ink, appearing to read "Janna Man", is written above a horizontal line.

Kansas Board of Pharmacy Staff