

Filed By

DEC 26 2018

KANSAS STATE BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of )  
 )  
David Childers )  
1-12183 )  
\_\_\_\_\_ )

Case No. 18-470

**SUMMARY ORDER OF DENIAL**

NOW on this 26 day of December, 2018, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of David Childers, ("Applicant"), for his reinstatement application for licensure as a pharmacist 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 Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board's Executive Secretary 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 Executive Secretary makes the following findings of fact:

1. On or about June 7, 2018, the Board received Applicant's reinstatement application for licensure as a pharmacist in the State of Kansas ("Applicant's Application").
2. Applicant's pharmacist license was placed on probation from 1997-2002 for impairment.
3. In 1999, Applicant voluntarily did not renew his Kansas license.

4. Applicant's Missouri pharmacist license was also subject to probation from 1998-2003.

5. Applicant asserted that both the Kansas and Missouri probations were the direct result of a 1995 knee surgery, after which he developed a Vicodin and Darvocet N-100 abuse problem. Applicant stated he took the Vicodin and Darvocet N-100 from the pharmacies where he worked.

6. In February 2016, Applicant entered an outpatient alcohol and drug dependence program at Comprehensive Mental Health Services for alcohol abuse following a 2015 divorce.

7. On his reinstatement application, Applicant stated that he has been sober for over two years and wants to have his license reinstated.

8. Based on Applicant's history, the Board believed there was reasonable suspicion to compel Applicant to submit to a mental health evaluation.

9. On September 6, 2018, the Board referred Applicant to the Kansas Pharmacist Recovery Network (KsPRN) for a mental health evaluation.

10. On October 18, 2018, the Board received a letter from the KsPRN, notifying that Applicant did not show up to his scheduled appointment for a mental health evaluation on September 28, 2018, and that Applicant notified the KsPRN that would not be committing to the KsPRN program at this time.

#### CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1627(a)(3), the Board may deny an application of any license of a pharmacist upon a finding that the licensee is found by the board to be guilty of unprofessional conduct.

2. Pursuant to K.S.A. 65-1626(ttt), unprofessional conduct includes conduct likely to deceive, defraud or harm the public.

3. Pursuant to K.S.A. 65-1627(b), in determining whether or not the licensee has violated subsection (a)(3), the board upon reasonable suspicion of such violation has authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both.

4. Pursuant to K.S.A. 65-1627(a)(13), the Board may deny an application of any license of a pharmacist upon a finding that the licensee has self-administered any controlled substance without a practitioner's prescription order or a mid-level practitioner's prescription order.

5. Pursuant to K.S.A. 65-1627(a)(15), the Board may deny an application of any license of a pharmacist upon a finding that the licensee has failed to furnish the board, its investigators, or its representatives any information legally requested by the Board.

6. Pursuant to K.S.A. 65-1627(a)(16), the Board may deny an application of any license of a pharmacist upon a finding that the licensee has violated or failed to comply with any lawful order or directive of the Board.

7. Applicant's previous self-administration of controlled substances, without proof that he has been rehabilitated, is unprofessional conduct and is a basis to deny Applicant's reinstatement application pursuant to K.S.A. 65-1627(a)(3).

8. Applicant's self-administration of Vicodin and Darvocet N-100 without a practitioner's prescription order or mid-level practitioner's prescription order is a basis to deny Applicant's reinstatement application pursuant to K.S.A. 65-1627(a)(13).

9. Applicant's failure to provide the Board with release of information as he was compelled to do pursuant to K.S.A. 65-1627(b) is a failure to furnish the Board with information legally requested by the Board and is a basis to deny Applicant's reinstatement application pursuant to K.S.A. 65-1627(a)(15).

10. Applicant's failure to comply with the lawful directive of the Board to undergo a mental health evaluation with the KsPRN is a basis to deny Applicant's reinstatement application pursuant to K.S.A. 65-1627(a)(16).

#### ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application for reinstatement of his pharmacist license is hereby DENIED.

#### NOTICES

Applicant is hereby notified as follows:

11. 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.

12. 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.

13. 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.

14. 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.

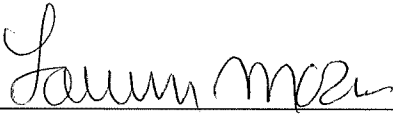
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Date

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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 26 day of December, 2018 deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order of Denial, properly addressed to the following:

David Childers  
3308 S. Phelps Road  
Independence, MO 64055

  
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Kansas Board of Pharmacy Staff