

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
David Flesch) Case No. 17-167
14-103727)
_____)

SUMMARY ORDER OF DENIAL

NOW on this 9 day of January, 2018, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of David Flesch, ("Applicant"), for his 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 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 July 31, 2017, 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.

3. On August 3, 2017, the Board received a background report from the Kansas Bureau of Investigation (“KBI”), indicating that Applicant had been arrested for criminal mischief in 1996 and had been arrested and convicted for indecent contact with a child in 1999.

4. On August 23, 2017, the Board sent Applicant a letter requesting he submit a completed S-150 Form.

5. On September 22, 2017, Applicant requested additional time to respond to the S-150 request.

6. On November 16, 2017, the Board sent Applicant a final letter requesting he submit a completed S-150 Form.

7. Applicant has not responded to the Board’s requests for a completed S-150 Form.

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 deny the granting of a license to an Applicant who has been convicted of a misdemeanor involving moral turpitude or gross immorality or any felony 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 deny the granting of a license to an Applicant who has been found guilty of unprofessional conduct.

4. Pursuant to K.S.A. 65-1626(sss), unprofessional conduct means conduct likely to deceive or harm the public.

5. Pursuant to K.S.A. 65-1627(a)(15), the Board may deny an application from an Applicant who has failed to furnish the board, its investigators or its representatives any information legally requested by the board;

6. Applicant's misdemeanor conviction for indecent contact with a child and his failure to prove that he has been sufficiently rehabilitated to warrant the public trust is a basis to deny Applicant's Application pursuant to 65-1627(a)(2).

7. Applicant's arrests for criminal mischief and indecent contact with a child are unprofessional conduct and bases to deny Applicant's Application pursuant to 65-1627(a)(3).

8. Applicant's failure to respond to the Board's request for a completed S-150 Form is a basis to deny Applicant's Application pursuant to 65-1627(a)(15).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application for issuance of pharmacy technician registration is hereby DENIED.

NOTICES

Applicant is hereby notified as follows:

9. 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.

10. 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.

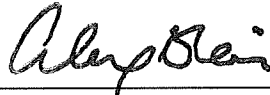
11. Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

12. 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.

1/9/13
Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 9 day of January, 2018 deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order of Denial, properly addressed to the following:

David Flesch
8406 E. Harry St. – Apt 420
Wichita, KS 67207



Kansas Board of Pharmacy Staff