

August 22, 2019

KELLEY HARMON
7908 E 134TH TERR
GRANDVIEW, MO 64030

RE: Case No. 18-785

Dear Ms. Harmon:

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

Filed By

AUG 22 2019

KANSAS STATE BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

Case No. 18-785

In the Matter of)
)
Kelley Harmon)
)
Applicant)

SUMMARY ORDER

NOW, on this 22nd day of August 2019, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Kelley Harmon ("Applicant"), for application for a Kansas pharmacy technician registration.

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, makes the following findings, conclusions and order.

FINDINGS OF FACT

1. On November 19, 2018, 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 questions on her application: "Have you ever been the subject of any disciplinary action taken against a professional or occupational license or registration?" and "Are you now or have you in the last five years been treated for a drug or alcohol addiction or participated in any substance abuse rehabilitation program?"

3. Applicant attached a Personal History Form S-150 to her application, disclosing that her LPN registration was revoked in 2013 due to a positive drug test in 2010 and an alcohol use issue.

4. On November 27, 2018, the Board received information regarding a 2001 charge against Applicant for driving while intoxicated.

5. On December 13, 2018, the Board mailed Applicant a letter requesting an explanation of the 2001 charge, as well as certified copies of the court pleadings from all of Applicant's court cases and documents regarding her LPN discipline and revocation.

6. On or around January 11, 2019, the Board received the requested documentation, along with letters or recommendation and a brief personal statement.

7. Applicant's court documents and personal history indicated that Applicant received and completed probation for her 2001 DUI offense. The documents also showed that in May 2011, Applicant was anonymously reported to her employer for drug use, tested positive for marijuana, and was then terminated from employment. Applicant's LPN registration was subsequently put on probationary status for five years. In 2013, Applicant violated the terms of her probationary LPN registration status by consuming alcohol. Applicant's LPN registration was then revoked in October 2013.

8. After reviewing all documents, the Board's Individual License Evaluator conducted a phone interview with Applicant. During the phone interview, Applicant admitted to an extensive 30-year history surrounding her use of alcohol and illicit substances. The Evaluator and relevant court documents noted that Applicant demonstrated no acknowledgement of wrongdoing or understanding of the nature and seriousness of her misconduct. Evaluator noted that Applicant reports ongoing consumption of alcohol.

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 an application upon a finding that the licensee has been convicted of a gross misdemeanor, 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 an application of any pharmacist who has been found guilty of unprofessional conduct.

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

5. Applicant's DUI and drug convictions are bases to deny Applicant's Application pursuant to K.S.A. 65-1627(a)(2). Specifically, Applicant failed to acknowledge any wrongdoing or express an understanding of the nature and seriousness of her misconduct and the impact on the public. As a result, Applicant was unable to demonstrate that she has been sufficiently rehabilitated to warrant the public trust at this time.

6. Applicant's history of being under the influence of substances while at work, her choice to continue consuming alcohol, and her past history of criminal drug and alcohol offenses indicates that Applicant may pose a danger to the public in the pharmacy setting where Applicant would have access to prescription drugs and any wrongdoing or impairment puts the public safety at substantial risk. Applicant's history is considered unprofessional conduct and a basis to deny Applicant's Application pursuant to K.S.A. 65-1627(a)(3).

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:

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.

Date

8/22/19



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 22nd day of August 2019, 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:

KELLEY HARMON
7908 E 134TH TERR
GRANDVIEW, MO 64030



Kansas Board of Pharmacy Staff