

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Sean Kelly)
14-107625)
_____)

Case No. 18-643

SUMMARY ORDER

NOW on this 25 day of February, 2019, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Sean Kelly, ("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 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 September 17, 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 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. Accordingly, Applicant disclosed a 2012 driving while intoxicated conviction in Missouri, a 2015 driving under the influence of alcohol conviction in Virginia, and a pending 2018 driving under the influence of alcohol offense in Kansas.

3. On September 28, 2018, the Board mailed Respondent a letter requesting he provide a completed Personal History Form S-150 for the 2012 driving while intoxicated offense, as well as certified copies of the court pleadings from all cases.

4. On or about October 25, 2018, the Board received the requested documents, as well as several letters of reference.

5. On or about February 5, 2019, the Board's Individual License Evaluator conducted a phone interview with Respondent.

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 place in a probationary status the license of any pharmacist upon a finding that the licensee has been convicted of a misdemeanor involving moral turpitude 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 place in a probationary status the license of any pharmacist who has been found guilty of unprofessional conduct.

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

5. Applicant's previous misdemeanor convictions and, given his recent arrest, his failure to show he has been sufficiently rehabilitated to warrant the public trust is a basis to place Applicant's registration in a probationary status pursuant to K.S.A. 65-1627(a)(2).

6. Applicant's recent DUI arrest and previous arrests and convictions are unprofessional conduct and a basis to place Applicant's registration in a probationary status pursuant to K.S.A. 65-1627(a)(3).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application for issuance of pharmacy technician registration is hereby GRANTED subject to a 2-year probationary status. The terms of Applicant's probation are as follows:

- Applicant must notify the Board of any change in his pending court case within 10 days of the change;
- Applicant must notify the Board of any change in employment within 10 days of the change and obtain Board approval for the change;
- Applicant must inform employers of the probationary status of his pharmacy technician registration;
- Applicant must obtain the signature of his pharmacist-in-charge (PIC) documenting knowledge of his probationary status to the Board; and
- Applicant must comply with all rules and regulations of the Pharmacy Practice Act.

NOTICES

Applicant is hereby notified as follows:

7. 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.

8. If a hearing is not requested as described above, the shall become a final order of the Board, effective upon the expiration of the time to request a hearing.

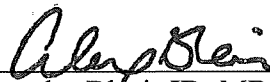
9. Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

10. 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.

2/25/19
Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 25 day of February, 2019 deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order, properly addressed to the following:

Sean Kelly
2204 SE Pine Gate Cir
Blue Springs, MO 64014



Kansas Board of Pharmacy Staff