

Filed By

OCT 29 2020

KANSAS STATE BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Austen Kern)
)
Registration No. 24-112067)

Case No. 20-267

SUMMARY ORDER

NOW, on this 29th day of October 2020, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Austen Kern, ("Applicant"), for 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, the Board makes the following findings, conclusions and order.

FINDINGS OF FACT

1. On May 8, 2020, the Board received Applicant's application for registration as a pharmacy technician in the State of Kansas ("Applicant's Application").
2. Applicant answered "No" 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." The application directs that if the applicant answers yes, the applicant must attach a Form S-150: Personal History ("Form S-150").

3. The Board received information regarding charges in July 2012 for misdemeanor interference with law enforcement, in August 2016 for misdemeanor domestic battery, and in November 2016 for felony stalking.

4. On May 28, 2020, the Board emailed a letter to Applicant's email address of record requesting a thorough Form S-150, as well as certified copies of the court pleadings from each case.

5. On June 24, 2020, the Board received from Applicant a vague Form S-150 which included only one sentence related to the charges in question, and was unaccompanied by any court documentation. Applicant included a statement that he completely forgot to disclose the charges, due to their outcomes, and that he ought to be granted his Pharmacy Technician license because he currently held security clearance with the Army National Guard.

6. On July 15, 2020, the Board emailed a second letter to Applicant's email address of record, again requesting a thorough Form S-150, as well as certified copies of the court pleadings from each case.

7. On July 28, 2020, the Board mailed the second letter to Applicant's mailing address of record.

8. On August 17, 2020, the Board received the requested documents from Applicant. Applicant's Form S-150 and court documents detailed that, though Applicant provided no statement of remorse or acceptance of responsibility, he successfully completed diversion for the 2012 charge, which the prosecution entered as minor in possession of alcohol. The August 2016 charge was dismissed, and for the November 2016 charge, the court could provide no records. Applicant provided no letters of recommendation.

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)(3), the Board may place in a probationary status the license of any pharmacist who has been found guilty of unprofessional conduct.

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

4. Applicant's failure to disclose his criminal charges and his possession of alcohol as a minor 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 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 her 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:


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

10/29/2020

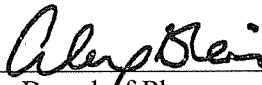


Alexandra Blasi, JD, MBA
Executive Secretary
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 29th day of October 2020, 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:

AUSTEN KERN
507 E 9th ST
PITTSBURG, KS 66762



Kansas Board of Pharmacy Staff