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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

August 8, 2022

Alan Kruger
119 NW Madison Ct
Port Saint Lucie FL 34986

RE: Case No. 22-121

Dear Mr. Kruger:

Enclosed you will find a Final Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety.

If you have any questions, feel free to contact the Board at Pharmacy.Compliance@ks.gov.

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of

Case No. 22-121

Alan Kruger

FINAL ORDER

Decision

The Kansas Board of Pharmacy (Board) has carefully considered the evidence presented and reviewed the applicable statutes, regulations and policies, and hereby denies the application of Alan Kruger (Kruger) for a Kansas pharmacist license by transfer.

Statement of Case

This matter comes on for hearing on June 2, 2022 before the Board upon Kruger's application for a Kansas pharmacist license by transfer.

Appearing for the Board were: Jonathan Brunswig, PharmD, President; and members, Bill Walden, R.Ph; Terica Gatewood, PharmD; Tiffany Strohmeyer, PharmD; Erick Axccl, PharmD ; Andrew Truong, PharmD; and, Lucinda Noches Talbert, Public Member

Kruger appeared via video conference without an attorney.

Brenda Head appeared via video conference as the Board's disciplinary counsel.

Alexandra Blasi (Blasi), Executive Secretary for the Board, appeared and provided testimony for the Board.

Loren F. Snell, Jr., Administrative Law Judge, was appointed and served as the Presiding Officer over the evidentiary hearing.

Evidentiary Rulings

The Board offered Exhibits 1 through 3 for admission as evidence. Kruger had no objection to admission of Exhibits 1 through 3. The Board's Exhibits 1 through 3 were admitted.

Kruger offered Exhibits A through G for admission as evidence. The Board's disciplinary counsel had no objection to admission of Exhibits A through G. Kruger's Exhibits A through G were admitted.

Findings of Fact

1. In March of 2018 Kruger submitted an Application for Transfer of Pharmacist License to the Board. It was noted that Kruger had answered "Yes" to the question concerning prior convictions. On March 30, 2018 the Board issued a letter to Kruger requiring that he submit copies of court documents associated with the criminal offense, a completed S-150 Personal History Form, and a completed S-100 Background Check Form. (Exhibit 1).

2. On April 25, 2018 the Board received a completed S-150 Personal History Form. (Exhibit 1).

3. On May 21, 2018 a second letter was sent to Kruger, again requesting that he submit copies of court documents associated with the criminal offense, a completed S-150 Personal History Form, and a completed S-100 Background Check Form. (Exhibit 1).

4. On July 19, 2018 an email was sent to Kruger advising that the Board had not received the S-100 Background Check Form. (Exhibit 1). The Board requested an update so that Kruger's application could be processed.

5. Kruger did not respond to the requests.

6. On January 23, 2019 the Board issued a Summary Order of Denial, denying Kruger's application because Kruger had not submitted the requested S-100 Background Check Form. (Exhibit 1). The order included a section advising Kruger that he could request a hearing before the Board and how that could be accomplished.

7. Kruger did not request a hearing regarding the January 23, 2019 Summary Order of Denial.

8. On February 1, 2022 the Board received a License Application: Pharmacist by Reciprocity/Transfer. (Exhibit 2). Included with the application was the completed S-150 Personal History Form and copies of the court documentation associated with Kruger's criminal conviction.

9. According to the court documents, Kruger was convicted of two (2) misdemeanor counts of Improper Exhibition of a Weapon in the State of Florida on or about November 19, 2015. (Exhibit 2). Kruger was placed on twelve (12) months probation, which he successfully completed.

10. On March 26, 2020 the Board received a letter from Sanger Law Office, purporting to represent Kruger. (Exhibit 2). The letter explained that Kruger was informed by his employer that he no longer needed to complete the application process. Kruger assumed that he could discontinue the process and allow the application to expire. The letter identifies a letter Kruger sent to the Board dated January 25, 2019, in which Kruger explained the situation to the Board.¹

¹ There was no indication from the letter that Kruger was requesting a hearing on the January 23, 2019 Summary Order of Denial and the order became final on February 11, 2019.

11. On or about March 12, 2020 Kruger entered into a Consent Agreement with the Louisiana Board of Pharmacy. (Exhibit 2) Kruger was issued a Letter of Reprimand by the Louisiana Board of Pharmacy and ordered to pay a fine. The basis for the action was Kruger's failure to report the Summary Order of Denial issued by the Board.

12. On or about July 21, 2020 a Consent Order was issued by the Alabama State Board of Pharmacy, to which Kruger agreed. (Exhibit 2). A fine was issued to Kruger. The charges upon which the Consent Order was based included the Summary Order of Denial issued by the Board, as well as Kruger's failure to disclose the criminal conviction from the State of Florida.

13. Kruger provided copies of documents concerning the criminal charges in the State of Florida. (Exhibit 2). Kruger was charged in St Lucie County Court with two (2) counts of Improper Exhibition of Weapon for events occurring on or about August 1, 2015. Kruger plead no contest to the charges on or about November 16, 2015 and was placed on one (1) year of probation. Kruger completed the term of probation and was released from probation on or about October 20, 2016.

14. On March 21, 2022 the Board received a letter from Kruger requesting an update on his application and requesting that the Board only communicate with him by U.S. mail. (Exhibit 2).

15. Kruger testified that he had no issues other than the Summary Order of Denial issued by the Board, and that the Summary Order of Denial led to the disciplines imposed on Kruger by the states of Louisiana and Alabama.

16. Kruger testified that he had called the Board during the Spring of 2018 and verbally requested that his application be closed. Kruger further testified that he was not told that he had to submit something in writing.

17. In discussing the criminal charges in 2015, Kruger testified that his son had called him because he was being threatened by two (2) "thugs." Kruger testified he went to his son and when the two (2) individuals would not leave he pulled his firearm and displayed it to the individuals. Witnesses reported he had a firearm and he was charged by an "overzealous" prosecutor. In written materials Kruger labeled the matter as "politically motivated." Kruger testified he chose to plead rather than go to trial because of the cost and the risk of going to jail.

Applicable Statutes, Regulations and Policies

"The board may deny an application or renewal, limit, condition, revoke, suspend or place in a probationary status the license of any pharmacist upon a finding that: (2) the licensee 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."²

² K.S.A. 65-1627(a).

Decision

The Board considered the information provided and concluded Kruger has failed to take the application or administrative hearing process seriously, has failed to take responsibility for the criminal conduct resulting in his criminal conviction, and has failed to demonstrate that he has been sufficiently rehabilitated to warrant the public trust. Kruger continued to justify his conduct in 2015.

The Board voted 7-0 to deny Kruger’s License Application: Pharmacist by Reciprocity/Transfer.

Aug 6, 2022
Date

Dr. Jonathan W. Brunswig, PharmD
Dr. Jonathan W. Brunswig, PharmD (Aug 6, 2022 08:28 CDT)
Jonathan Brunswig, PharmD, President
Kansas Board of Pharmacy

Notices

1. This is a Final Order and becomes effective upon service.
2. **Within fifteen (15) days** after service of the Final Agency Order, any party may file a Petition for Reconsideration.³
3. Either party to this agency proceeding may seek judicial review of the Final Order by filing a timely petition in the District Court.⁴ Reconsideration of the Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed **within thirty (30) days** following service of the Final Order.
4. A copy of any petition for judicial review must be served upon the Kansas Board of Pharmacy. The agency officer designated to receive service of a petition for judicial review is:

Alexandra Blasi, Executive Secretary
Kansas State Board of Pharmacy
800 SW Jackson #1414
Topeka, KS 66612-1244

³ K.S.A. 77-529.

⁴ K.S.A. 77-613.

Certificate of Service

On August 8, 2022, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Alan Kruger
119 NW Madison Ct.
Port Saint Lucie, FL 34986

Brenda Head
Frieden & Forbes, LLP
1414 SW Ashworth Place, Ste 201
Topeka, KS 66604

and, I further certify that I caused a copy of the foregoing to be hand-delivered to:

Alexandra Blasi
Executive Secretary
Kansas State Board of Pharmacy
800 SW Jackson #1414
Topeka, KS 66612-1244



Staff Person
Kansas Board of Pharmacy