

January 26, 2021

CARLENE LEAR
4416 N BRIGHTON AVE
KANSAS CITY, MO 64117

RE: Case No. 20-249

Dear Ms. Lear:

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

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Carlene Lear)
)
Registration No. 24-112055)

Case No. 20-249

SUMMARY ORDER

NOW, on this 26th day of January 2021, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Carlene Lear, (“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 20, 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 her 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 applicant instructs that if an applicant answers “YES” they must attach a Personal History Form: S-150 (“S-150”).

3. Though Applicant answered “NO” to the above question, she *did* include an S-150, in which she stated only that she had attached two documents. There was one document attached - a two-page, photocopied court record concerning a dismissed 2014 assault charge.

4. As part of Applicant’s Application, Applicant certified that the information provided was true, correct, and complete, and understood that falsification of the information provided was grounds for denying Applicant’s Application.

5. On or about June 11, 2020, the Board received background information regarding additional charges laid against Applicant for possession of marijuana in 2014, 2016, and 2018, as well as possession of drug paraphernalia in 2018.

6. On July 7, 2020, the Board emailed a letter to Applicant’s email address of record requesting a more thorough S-150 detailing all possession charges, as well as certified copies of the court pleadings from each case.

7. On or about August 4, 2020, the Board received the requested documentation. Applicant’s court documents indicated that the 2014 marijuana possession charge was dismissed, the 2016 marijuana possession charge was reduced to a guilty plea for littering, and Applicant pleaded guilty to the 2018 paraphernalia charge which was closed in December 2019. Neither Applicant’s court records nor her personal statement documented the circumstances that led to Applicant’s charges, or if she served out any court sentencing other than the payment of fines.

8. Applicant submitted no letters of recommendation nor any proof demonstrating rehabilitation since the time of her wrong-doing.

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)(1), the Board may place in probationary status an application of any pharmacist who has obtained, renewed or reinstated, or attempted to obtain, renew or reinstate, a license by false or fraudulent means, including misrepresentation of a material fact.

3. Pursuant to K.S.A. 65-1627(a)(3), the Board may place in probationary status 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, and/or fraud in securing a registration.

5. Applicant's false response to the application question as well as her omission of multiple charges and pleas was a misrepresentation of a material fact and a basis to place Applicant's registration in a probationary status pursuant to K.S.A. 65-1627(a)(1).

6. Applicant's paraphernalia possession conviction is a basis to place Applicant's registration in a probationary status pursuant to K.S.A. 65-1627(a)(3), as the recent nature of this resolution has not allowed for ample time for Applicant to demonstrate that she has been sufficiently rehabilitated to warrant the public trust at this time, nor did she provide any documentation or recommendations noting such. Furthermore, her pattern of disregard for rules and strict adherence to the law has the potential to endanger the public in the pharmacy setting without appropriate oversight.

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 her court status within 10 days of the change;
- Applicant must notify the Board of any arrest or criminal charge within 10 days of the date of the arrest or charge;
- 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 her pharmacy technician registration;
- Applicant must obtain the signature of her 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.

1/26/2021

Date




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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 26th day of January 2021, 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:

CARLENE LEAR
4416 N BRIGHTON AVE
KANSAS CITY, MO 64117



Kansas Board of Pharmacy Staff