

STATE OF KANSAS
BEFORE THE KANSAS STATE BOARD OF PHARMACY

Filed
APR 19 2010
KANSAS STATE
Board of Pharmacy

In the Matter of)
)
Diane Wasinger, R.Ph.) Case No. 09-44
Kansas License No. 1-11386)
_____)

PETITION AND NOTICE OF INTENT TO REVOKE LICENSE

COMES NOW the Kansas State Board of Pharmacy (“Board” or “Plaintiff”) and reviews the file on Diane Wasinger, R.Ph, (“Licensee” or “Defendant”).

THEREUPON, being duly advised in the matter, the Board finds that:

GENERAL

1. The Board is charged with the administration of the Kansas Pharmacy Act (K.S.A. 65-1626, *et seq.*) and with the enforcement of the rules and regulations promulgated thereunder (K.A.R. 68-1-1a *et seq.*). Further, the Board is authorized to initiate proceedings to revoke any license, registration, or permit issued by the Board under provisions of the pharmacy act of the State of Kansas pursuant to K.S.A. 65-1627a. The Licensee is presently authorized to engage in the practice of pharmacy in the State of Kansas having been issued License No. 1-11386.

2. Pursuant to laws and regulations pertaining to the practice of pharmacy, the Board is authorized to conduct hearings, summary proceedings, and emergency proceedings under the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.* Such proceedings may result in suspension, revocation, and other disciplinary actions affecting Licensee’s ability to work as a Licensed Pharmacist in the State of Kansas.

3. K.S.A. 65-1627(a)(12) provides that:

(a) The board may revoke, suspend, place in a probationary status or deny a renewal of any license of any pharmacist upon a finding that: (12) the licensee has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;

4. K.S.A. 65-1627(g) provides that:

(g) Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

INFORMATION WHICH EVIDENCES THAT THE LICENSE OF DIANE
WASINGERTO PRACTICE PHARMACY IN THE STATE OF KANSAS SHOULD
BE REVOKED

5. On or about April 2, 2009, Licensee voluntarily surrendered her license to practice pharmacy in the State of Missouri while she was being investigated for violations of laws and regulations pertaining to the practice pharmacy in that State. As a result of Licensee's voluntary surrender of her license, she is ineligible to practice pharmacy in Missouri for a period of seven years from the effective date of a document entitled "Settlement Agreement Between [the Missouri] State Board of Pharmacy and Diane Wasinger." ("Missouri Disciplinary Action") The Missouri Disciplinary Action was signed by the Executive Director of the Missouri Board of Pharmacy on April 7, 2009.

6. In an affidavit attached to the Missouri Disciplinary Action, Licensee stated, under oath:

(2) It is my intent and desire at this time, after due deliberation, to voluntarily surrender my pharmacist license to the Missouri Board of Pharmacy and provide that Board with any other documents or certificates

in my possession evidencing the existence of that pharmacist license.

(6) I further understand that my license as a pharmacist will not be returned to me by the Missouri Board of Pharmacy upon request, but that license will cease to exist when it is surrendered.

7. The affidavit cited in paragraph 6 above was signed by Licensee on April 2, 2009 before a notary public in and for the State of Missouri.

8. The Board has in its possession a copy of the Missouri Disciplinary Action, the Affidavit signed by Licensee, and 244 pages of investigative documents compiled by Missouri pharmacy investigators which evidence serious violations of Missouri laws pertaining to the safe and lawful practice of pharmacy. Those documents are contained on a Compact Disc provided to the Executive Director of the Kansas Board of Pharmacy which remains in her custody.

9. A copy of the Missouri Disciplinary Action, including the Affidavit signed by Licensee, is attached hereto and incorporated herein as if more fully set forth in detail. These official documents obtained from the Missouri Pharmacy Board on October 7, 2009, evidence that Licensee violated safe and lawful pharmacy laws and regulations in a pharmacy she owned and where she served as the pharmacist-in-charge, including but not limited to the following:

a. The erroneous filling of two prescriptions which resulted in the hospitalization of two patients.

b. Overage and shortages of controlled substances including shortage of over 4,000 various dosage units.

c. Failure to provide effective controls and procedures to guard against theft and diversion of controlled substances.

- d. Failure to maintain adequate security in order to deter theft of drugs.
 - e. Knowingly filling prescriptions which had been postdated by the prescriber.
 - f. Accepting a dispensed Oxycodone prescription returned by a patient which was discovered by a pharmacy inspector during a pharmacy audit.
 - g. Filling numerous prescriptions too soon after they had been previously filled, including prescriptions for controlled substances.
 - h. Incorrectly recording the prescriber of controlled substances on five occasions.
 - i. Stipulating to the factual truthfulness of the allegations stated in this paragraph and all other factual allegations contained in the Missouri Disciplinary Action attached hereto as Exhibit A.
 - j. Stipulating that due to violations of Missouri pharmacy laws and regulations, her license to practice pharmacy in that State, Missouri License No. 2000174390, is subject to disciplinary action by the Missouri Board of Pharmacy.
 - k. Voluntarily surrendering of her license to the Missouri Board of Pharmacy following an investigation of her practices as a pharmacist, pharmacist-in-charge, and pharmacy owner.
10. Recent attempts by the Board to contact the Licensee about the surrender of her license to practice pharmacy in the State of Missouri have not been successful.

11. The Board appoints William C. Rein, Attorney at Law, to serve on its behalf as Disciplinary Counsel in this case. Mr. Rein is authorized to work at his home address:

William C. Rein
1831 SE 43rd Terrace
Topeka, KS 66609
(785) 266-3790 Personal
(785) 224-5307 Cell
Email: wrein@cox.net

12. Mr. Rein is ordered to appear before the Board at all administrative dockets upon which this case is scheduled unless specifically allowed to appear by telephone upon permission granted by the Board or its Executive Director.

WHEREFORE, pursuant to K.S.A. 65-1627(a)(12), K.S.A. 65-1627a, and K.S.A. 77-501 *et seq*, and for the reasons stated above, petition and notice is hereby given of the Board's intent to revoke Licensee's license to practice pharmacy in the State of Kansas.

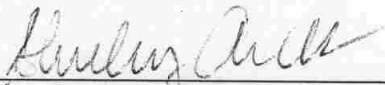
RIGHT TO HEARING

Licensee may request a hearing in accordance with the provisions of the Kansas Administrative Procedure Act. A written request for a hearing must be filed within fifteen (15) days of service of this petition and notice as prescribed by K.S.A. 77-542(a). The request must be submitted to the following person at the address shown. Failure to submit a timely request will result in a waiver of Licensee's right to a hearing, and this petition and notice will become a final order revoking Licensee's license to practice pharmacy in the State of Kansas.

Debra Billingsley
Executive Director
Kansas State Board of Pharmacy
Landon State Office Building
900 SW Jackson Street- Suite 560
Topeka, KS 66612-1230

IT IS SO ORDERED.

Dated this 31 day of March, 2010.


Investigative Member
Kansas State Board of Pharmacy
Landon State Office Building
900 SW Jackson Street- Suite 560
Topeka, KS 66612-1230
(785) 296-4056 Main Office
(785) 296-8420 FAX

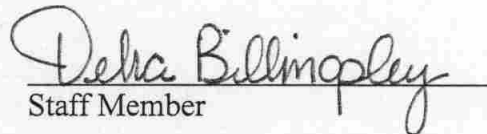
CERTIFICATE OF SERVICE

I hereby certify that on this 31 day of March, 2010, I deposited a true and correct copy of the above and forgoing "Settlement Agreement and Final Order" in the United States Mail, postage prepaid, and addressed to:

Diane Wasinger, R.Ph.
PO Box 342
11786 Liv 2353
Chillicothe, MO 64601

William C. Rein, KS # 09579
Disciplinary Counsel
Kansas State Board of Pharmacy

Direct Mailing Address:
William C. Rein
1831 SE 43rd Terrace
Topeka, KS 66609


Staff Member