

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of
Britani Winberry
Technician Applicant

Case No. 17-059

**NOTICE OF PROPOSED DEFAULT ORDER
AND
PROPOSED DEFAULT ORDER**

The above-captioned matter comes on for consideration by the Kansas State Board of Pharmacy (Board) to enter a Proposed Default Order.

The Board finds:

1. On December 28, 2017, the Board issued a Summary Order of Denial with regard to the application of Britani Winberry for registration as a Kansas pharmacy technician.
2. On January 3, 2018, Ms. Winberry requested an Administrative Hearing. The Board sent an Acknowledgement of Hearing Request on January 18, 2018.
3. On February 14, 2018, a Notice of Administrative Hearing was served on Ms. Winberry, setting the hearing in this matter for March 8, 2018 at 10:15 a.m.
4. On February 26, 2018, Ms. Winberry emailed the Board requesting her hearing be postponed to a later date. The Board informed Ms. Winberry her hearing would be rescheduled for June 14, 2018 and that she would receive formal notification of the change.
5. On May 4, 2018, a Notice of Administrative Hearing was served on Ms. Winberry, setting the hearing in this matter for June 14, 2018 at 8:45 a.m.
6. The notice specifically provided that “[a]ny party who fails to attend or participate in the hearing or in any other portion of the adjudicative process may be held in default pursuant to K.S.A. 77-520 and the Board may conduct further proceedings necessary for adjudication without the participation of the Respondent.”
7. The hearing in this matter was convened on June 14, 2018 at 8:45 a.m. Ms.

Winberry did not appear.

8. Ms. Winberry is in default pursuant to K.S.A. 77-520.
9. This Proposed Default Order shall become effective seven days after service or ten days after mailing of this order unless Ms. Winberry files a written motion with the Board at the address provided stating why the Proposed Default Order should be vacated and the order is then vacated.
10. If this Proposed Default Order becomes effective, Ms. Winberry's application for registration as a Kansas pharmacy technician shall be denied.
11. If the Proposed Default Order becomes effective, Ms. Winberry may petition for review by the Board within fifteen days thereafter. Failure to timely petition for review by the Board may preclude judicial review.
12. If this Proposed Default Order becomes effective and neither party requests further administrative review, it shall become a Final Order.
13. If this Proposed Default Order becomes a Final Order, any petition for judicial review must be filed within the deadline established in K.S.A. 77-613. Any petition for judicial review must be mailed or personally delivered to: Alexandra Blasi, Executive Secretary, Kansas State Board of Pharmacy, 800 SW Jackson, Suite 1414, Topeka, Kansas 66612.

The Board, being well and duly advised in the premises, now enters this Proposed Default Order against Ms. Winberry. It shall take effect as specified in the above findings.

6/26/18
Date

Alexandra Blasi
Alexandra Blasi, Executive Secretary
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

On June 27, 2018, I mailed a copy of this document to:

Britani Winberry
200 SE Woodland Ave
Topeka, KS 66607

Randall J. Forbes
Frieden, Unrein & Forbes
1414 SW Ashworth Pl, Ste. 201
Topeka, KS 66604

Alexandra Blasi, JD, MBA
Executive Secretary
Kansas State Board of Pharmacy
800 SW Jackson, Ste. 1414
Topeka, KS 66612-1244



Staff Person

Filed By

DEC 28 2017

KANSAS STATE BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Britani Winberry)
14-10347)
_____)

Case No. 17-059

SUMMARY ORDER OF DENIAL

NOW on this 28 day of December, 2017, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Britani Winberry, ("Applicant"), for her 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 of Denial 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 March 9, 2017, 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.

3. On March 15, 2017, the Board received a background report from the Kansas Bureau of Investigation (“KBI”), indicating that Applicant had been arrested for Battery on a Law Enforcement Officer on September 12, 2016 and charged with both Battery on a Law Enforcement Officer and Battery for said arrest on September 13, 2016.

4. On March 20, 2017, the Board sent Applicant a letter requesting she submit a completed S-150 Form.

5. On June 14, 2017, the Board sent Applicant a second letter requesting she submit a completed S-150 Form.

6. Applicant has not responded to the Board’s requests for a completed S-150 Form.

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 deny the granting of a license to an Applicant who has attempted to obtain 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 deny the granting of a license to an Applicant who has been found guilty of unprofessional conduct.

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

5. Pursuant to K.S.A. 65-1627(a)(15), the Board may deny an application from an Applicant who has failed to furnish the board, its investigators or its representatives any information legally requested by the board;

6. Applicant's answer of "No" regarding her previous criminal history is a misrepresentation of a material fact and is a basis to deny Applicant's application pursuant to K.S.A. 65-1627(a)(1).

7. Applicant's arrest for Battery on a Law Enforcement Officer is unprofessional conduct pursuant to K.S.A. 65-1627(a)(3).

8. Applicant's failure to respond to the Board's S-150 request is a basis to deny Applicant's Application pursuant to K.S.A. 65-1627(a)(15).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application for issuance of pharmacy technician registration is hereby DENIED.

NOTICES

Applicant is hereby notified as follows:

9. 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.

10. If a hearing is not requested as described above, the Order denying Applicant's Registration as a pharmacy technician shall become a final order of the Board, effective upon the expiration of the time to request a hearing.


11. 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.

12. 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.

12/28/17
Date

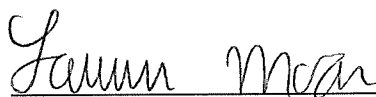


Alexandra Blasi, JD, MBA
Executive Secretary
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 28 day of December, 2017 deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order of Denial, properly addressed to the following:

Britani Winberry
200 SE Woodland Avenue
Topeka, KS 66607



Kansas Board of Pharmacy Staff