

October 12, 2021

NORMA UGARTE
5915 GRANADA ST
FAIRWAY, KS 66205

RE: Case No. 21-157

Dear Ms. Ugarte:

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)
)
Norma Ugarte)
)
Technician Registration No. 24-115123)
Intern Registration No. 3-115123)

Case No. 21-157

SUMMARY ORDER

NOW, on this 12th day of October 2021, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Norma Ugarte, (“Applicant”), for initial application for registration as a Kansas pharmacy technician and secondary application for registration as a Kansas pharmacist intern.

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 June 8, 2021, the Board received Applicant’s application for registration as a pharmacy technician in the State of Kansas (“Applicant’s Application”).

2. Applicant answered “YES” 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 application directs that if the applicant answers yes, the applicant must attach a Form S-150: Personal History (“Form S-150”).

3. On her Form S-150, Applicant briefly noted an August 2020 domestic incident, and that she was applying for diversion based on her record of no violence and no other criminal record. No court documents were included with Applicant’s S-150 to support the charge.

4. On June 18, 2021, the Board received information identifying Applicant’s charges as misdemeanors of criminal trespassing, battery, and criminal damage to property, with an additional criminal damage to property felony charge.

5. On July 8, 2021, the Board emailed a letter to Applicant’s email address of record requesting she provide further statement to better detail the incident, as well as certified copies of the court pleadings from the case.

6. On July 28, 2021, the Board received the requested documents. Applicant’s court records and statement detailed that this was a domestic violence case for which she was granted diversion, and both parties received protection orders. Also included were letters of recommendation.

7. On September 20, 2021, the Board received Applicant’s application for registration as a pharmacy intern in the State of Kansas, which had attached a copy of her further statement that had been submitted on July 28, 2021.

CONCLUSIONS OF LAW

1. 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 or pharmacy intern 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)(2), the Board may place in a probationary status the license of any pharmacist upon a finding that the licensee has been convicted of any felony or misdemeanor of gross immorality or moral turpitude, and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust.

3. 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.

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

5. As Applicant is serving diversion for the domestic violence incident, she has not yet shown herself sufficiently rehabilitated. Since Applicant is not yet fully rehabilitated and the charges are very recent in nature, there is a potential risk to the public based on Applicant's unprofessional conduct. Therefore, Applicant should be carefully supervised in a pharmacy environment by any supervisors. Applicant's recent domestic violence incident is a basis on which to place any registration granted to Applicant in a probationary status pursuant to K.S.A. 65-1627(a)(3).

6. To prevent harm, the issuance of any registration to Applicant should be carefully supervised and scrutinized to ensure her own safety and well-being, and that of the public.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application for issuance of pharmacist intern registration is hereby GRANTED subject to a 2-year probationary status. The terms of Applicant's probation are as follows:

- Applicant must continue compliance with the terms of her court diversion agreement, as well as any future-imposed court requirements;

- Applicant must notify the Board of any change in her diversion or 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 pharmacist intern 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.

In addition, in the event Applicant chooses to default back to her pharmacy technician registration application during periods where she is not suing her intern registration, Applicant's Application for issuance of pharmacy technician registration should be GRANTED subject to the same terms and conditions set forth above for her intern registration.

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.

10/12/2021

Date



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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 12th day of October 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:

NORMA UGARTE
5915 GRANADA ST
FAIRWAY, KS 66205



Kansas Board of Pharmacy Staff