

BEFORE THE KANSAS BOARD OF PHARMACY

Filed By
AUG 6 2015
KANSAS STATE
BOARD OF PHARMACY

In the Matter of

NYLA K. O'NEAL
Kansas License No. 1-12654

Case No. 15-083
OAH No. 16BP0001

FINAL AGENCY ORDER

Statement of Case

This matter came before the Kansas Board of Pharmacy (Board) on the failure of the licensee, Nyla K. O'Neal, PharmD, to timely renew her license to practice pharmacy.

A hearing in this matter was held on July 16, 2015. Appearing for the Board were: Vice President, Chad Ullom, R.Ph.; and members, James Garrelts, PharmD; Michael Lonergan, R.Ph.; David Schoech, R.Ph.; John Worden, PharmD; and Cheri Pugh, Public Member.

Randall J. Forbes appeared as the Board's disciplinary counsel.

Dr. O'Neal appeared in person and with her counsel, Scott Hesse.

Findings of Fact

1. Dr. O'Neal held a license to practice pharmacy in the state of Kansas for approximately 17 years.
2. Pursuant to K.S.A. 65-1632, "each license to practice as a pharmacist issued by the board, shall expire every two years."
3. On June 30, 2014, Dr. O'Neal's pharmacy license expired and was not renewed.

4. Dr. O'Neal's license was administratively cancelled on or about August 6, 2014, due to her failure to renew her license.
5. On or about July 2, 2015, Dr. O'Neal contacted the Board of Pharmacy office indicating that she had realized she had not renewed her license but had been working as a pharmacist at the University of Kansas Hospital during that time period. At that time, she also had not completed the 30 clock hours of continuing education (CE) during the relevant two-year time period as required by law.
6. Dr. O'Neal promptly completed 45 hours of CE and hand delivered the documentation of such with her Application for Reinstatement of License to the Board office.
7. Dr. O'Neal was advised to immediately stop practicing, which she did.
8. As a result of this matter, Dr. O'Neal's employment of 18 years at the University of Kansas Hospital was terminated.
9. Dr. O'Neal appeared at the hearing requesting that the Board renew her license retroactive back to July 1, 2014.

Applicable Law
and
Discussion

1. K.S.A. 65-1658 provides:

The state board of pharmacy, in addition to any other penalty prescribed under the pharmacy act of the state of Kansas, may assess a civil fine . . . against any licensee . . . under subsections (a), (c), (d) and (e) of K.S.A. 65-1627, and amendments thereto, for violations of the pharmacy act of the

state of Kansas or rules and regulations of the state board of pharmacy adopted under the pharmacy act of the state of Kansas . . . in an amount not to exceed \$5,000 for each violation.

2. Pursuant to the Kansas Board of Pharmacy Policy and Procedure Manual:

2.1 Continuing Education Violation and Penalties

2.1.1. Program Description and Purpose

The Board of Pharmacy regards failure to comply with the continuing education (CE) rule and regulation requirements for licensure as a serious issue. With the number of many home-study, web-based, and live programs available, achieving the thirty (30) hours required each biennial renewal period cannot be viewed as a burden. Accordingly, the penalties assessed by the Board when a CE audit indicates a failure to comply with the CE requirements are far worse than the effort required to complete the minimum 30-hour requirement.

2.1.2 Discovered Upon Audit - First Offense

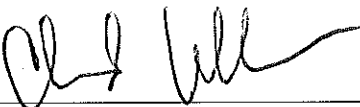
1. **Fine:** \$100 fine for each one (1) hour or partial hour of missing or falsified CE with a \$500 minimum.
2. **Additional CE:** Four (4) hours of CE will be required for each one (1) hour or partial hour of missing or falsified CE. Additional CE must be provided to the Board within thirty (30) days of receipt of Board Order or pharmacy license will be placed on inactive status during which time the licensee shall not engage in the practice of pharmacy in Kansas. The licensee shall only engage in the practice of pharmacy upon reactivation of their pharmacy license.
3. Dr. O'Neal testified that her failure to renew her license was an oversight. The Board found her remorse and assurances that this will never happen again genuine.

4. The Board unanimously voted to reinstate her license retroactive to July 1, 2014.
5. However, the Board found the following discipline appropriate in this case.
6. While Dr. O'Neal's failure to timely complete the required CE was not found during an audit, the Board determined that a fine in the amount of \$3,000 (\$100 for each of the 30 hours of missing CE), as well as a requirement that she complete 120 additional hours (4 hours for each of the 30 hours of missing CE) is warranted.
7. The Board also found that a civil fine in the amount of \$2,000 should be assessed against Dr. O'Neal for practicing pharmacy without a license for approximately one year.

Order

IT IS SO ORDERED that Dr. O'Neal shall pay fines totaling \$5,000 and shall complete 120 additional CE hours in 30 days.

7/16/15
Date



Chad Ullom, R.Ph.
Vice 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 pursuant to K.S.A. 77-529.

3. Either party to this agency proceeding may seek judicial review of the Final Order by filing a timely petition in the District Court as authorized by K.S.A. 77-613. 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:

Debra L. Billingsley
Executive Secretary
Kansas State Board of Pharmacy
800 SW Jackson #1414
Topeka, KS 66612-1244

CERTIFICATE OF SERVICE

On August 6, 2015, I mailed a copy of this document
to:

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Mitzi Drulda
Staff Person