

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of )  
 )  
NOEL J. MCBRIDE, R.Ph. )  
Kansas License No. 1-14109 )

Case No. 06-45

Filed  
FEB 25 2008  
KANSAS BOARD OF PHARMACY

**FINAL AGENCY ORDER**

On January 30, 2008, a hearing was held before the Kansas Board of Pharmacy (the "Board") on the Petition to Revoke, Suspend or Otherwise Limit Licensure filed in the above-captioned matter regarding Noel J. McBride, R.Ph. ("McBride"). Notwithstanding notice of the hearing, McBride failed to attend and participate in the hearing. B. Lane Hemsley of Frieden & Forbes appeared as Disciplinary Counsel for the Board. After considering the evidence admitted at the hearing, the Board enters the following final agency order.

**I. FINDINGS OF FACT**

1. The Board has previously issued McBride license number 1-14109, which entitled him to practice pharmacy in the State of Kansas ("McBride's License").
2. On or about April 7, 2006, McBride was terminated from his position as a pharmacist at Osco Pharmacy because he misappropriated a controlled substance. [Exhibit 1].
3. On May 4, 2006, McBride executed a Consent Agreement, which required him to cease practicing pharmacy in Kansas without the subsequent written agreement of the Board and to enter into and comply with the recommendations and requirements of the persons managing or implementing the Kansas Pharmacy Impaired Provider Program. [Exhibit 2].
4. The Heart of America Professional Network ("HAPN") is the entity that contracts to implement the evaluation, treatment, and monitoring functions of the Kansas Pharmacy

Impaired Provider Program. HAPN referred McBride to Mission Valley Hope Association ("MVH"), which offers services for alcohol, drug and related treatment.

5. On or about June 12, 2006, David R. Mouille, Ph.D. ("Dr. Mouille"), a Licensed Psychologist of MVH, performed an evaluation to determine whether McBride experienced a substance abuse problem that could be expected to interfere significantly with McBride's professional duties as a pharmacist and whether McBride required therapy for a substance abuse problem. [Exhibit 3].

6. After performing the substance abuse evaluation, Dr. Mouille completed a written substance abuse evaluation report based on his evaluation of McBride. In his report dated June 12, 2006, Dr. Mouille concluded that McBride's history of Adderall abuse significantly affected his function as a pharmacist in a negative manner. Dr. Mouille further concluded that, if McBride continued to function as a pharmacist without intensive and protracted supervision, he posed a danger to himself and the people of Kansas. Dr. Mouille also concluded that McBride exhibited symptoms of substance abuse to such a degree that McBride should be in therapy. [Exhibit 3].

7. As a result of Dr. Mouille's June 12, 2006 substance abuse evaluation report, McBride entered into the Kansas Pharmacy Impaired Provider Program on June 29, 2006.

8. In a letter dated January 2, 2007, Dr. Mouille reaffirmed and expanded on his June 12, 2006 substance abuse evaluation report for McBride. In Dr. Mouille's opinion, McBride requires supervision from HAPN because McBride admitted that he abused Adderall in the past and has not completely moved beyond his propensity to misuse Adderall. Dr. Mouille also concluded that, because McBride is extraordinarily naïve and insensitive to his limitations, there is no indication McBride is aware of the seriousness of the substance abuse problem and

there is little hope that McBride will change. Dr. Mouille further concluded that McBride would remain a danger to the people of Kansas if he were to function autonomously as a pharmacist. In this regard, it is Dr. Mouille's opinion that it would be more responsible to protect the people of Kansas by prohibiting McBride from dispensing than to endanger the people of Kansas by allowing McBride to dispense. [Exhibit 4].

9. By letter dated April 12, 2007, HAPN notified McBride that he was in non-compliance with his HAPN agreement because he failed to do the following: Submit to random UA's on January 1, January 22, February 21, and March 9, 2007; call into the CVI system daily; and turn in twelve-step sheets as agreed. [Exhibit 5].

10. By letter dated May 30, 2007, HAPN notified McBride that he was in non-compliance with his HAPN agreement because he failed to do the following: Submit to random UA's; attend monthly monitoring meetings in March and May 2007; and turn in any twelve-step attendance sheets for 2007. HAPN subsequently closed McBride's file for non-compliance. [Exhibit 6].

11. On June 13, 2007, the Board entered an Emergency Agency Order suspending McBride's License to practice pharmacy until further order of the Board. McBride did not file a petition for reconsideration of the Emergency Agency Order pursuant to K.S.A. 77-529. McBride did not seek judicial review of the Emergency Agency Order within the time limits established in K.S.A. 77-613.

## **II. CONCLUSIONS OF LAW AND FACT**

12. McBride violated that Kansas Pharmacy Law as specified in Count I of the Petition to Revoke, Suspend or Otherwise Limit Licensure. As a result, McBride's License to

practice pharmacy may be disciplined pursuant to K.S.A. 65-1627(a)(3), as defined in K.S.A. 65-1626(hh).

13. McBride violated the Kansas Pharmacy Law as specified in Count II of the Petition to Revoke, Suspend or Otherwise Limit Licensure. As a result, McBride's License to practice pharmacy may be disciplined pursuant to K.S.A. 65-1627(a)(3), as defined in K.S.A. 65-1626(ee).

14. McBride violated the Kansas Pharmacy Law as specified in Count III of the Petition to Revoke, Suspend or Otherwise Limit Licensure. As a result, McBride's License to practice pharmacy may be disciplined pursuant to K.S.A. 65-1627(a)(4).

### **III. FINAL ORDER**

Based upon the evidence introduced at the hearing held January 30, 2008, and the foregoing findings and conclusions, McBride's License to practice pharmacy in Kansas (Kansas license number 1-14109) is hereby revoked.

Within fifteen (15) days after service of this Final Agency Order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

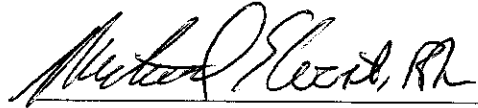
Within the time limits established in K.S.A. 77-613, either party may seek judicial review of this Final Agency Order, pursuant to said statute. The agency officer designated to receive service of a petition for judicial review is:

Debra L. Billingsley  
Executive Director  
Kansas Board of Pharmacy  
900 SW Jackson, Suite 560  
Topeka, Kansas 66612-1231

**IT IS SO ORDERED.**

*2-14-2008*

Date



MICHAEL E. COAST, R.PH.  
President  
Kansas Board of Pharmacy

**CERTIFICATE OF SERVICE**

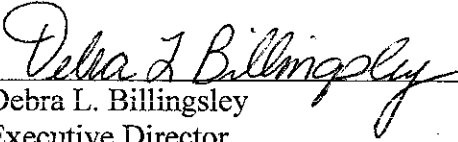
I hereby certify that a true and correct copy of the above and foregoing **FINAL AGENCY ORDER** was sent by United States Mail, postage prepaid, on this the 25 day of February, 2008, and properly addressed to the following:

Randall J. Forbes, Esq.  
Frieden & Forbes  
555 South Kansas Avenue, Suite 303  
Topeka, Kansas 66603

Noel J. McBride, R.Ph.  
7111 W. 151<sup>st</sup>  
Overland Park, KS 66223

And a copy was sent certified mail, return receipt requested to:

Noel J. McBride, R.Ph.  
7111 W. 151<sup>st</sup>  
Overland Park, KS 66223

  
Debra L. Billingsley  
Executive Director  
Kansas Board of Pharmacy