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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

March 27, 2023

THOMAS MCCARTHY
7717 N NICKERSON RD
NICKERSON KS 67561

RE: *In the Matter of Thomas McCarthy*
Case No. 23-108

Dear Thomas McCarthy:

The Kansas State Board of Pharmacy has concluded its audit of continuing education for your recent renewal and determined that you are noncompliant. Please read the enclosed Summary Order in its entirety, which includes assessment of a fine and mandatory additional continuing education. This discipline will be reported to the National Association of Boards of Pharmacy as a continuing education violation.

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 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 questions, please email pharmacy.compliance@ks.gov and reference your case number.

Sincerely,

Kansas State Board of Pharmacy

enc: Summary Order

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of)
the Renewal Application of)
Thomas McCarthy)
Registration No. 14-08446)
_____)

Case No. 23-108

SUMMARY ORDER

NOW on March 27, 2023, comes before the Kansas State Board of Pharmacy through its Executive Secretary (hereinafter referred to as the "Board") the matter of Thomas McCarthy (hereinafter referred to as "Respondent").

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 provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board enters this Summary Order in the above-captioned matter. After reviewing the renewal materials and being otherwise duly advised in the premises, the Board makes the following findings, conclusions, and order:

FINDINGS OF FACT

1. On or around 9/14/2022, Respondent submitted a renewal application for Respondent's Kansas pharmacy technician registration.
2. At the end of the renewal application, Respondent agreed to the following statement prior to submitting the completed renewal application: "I hereby attest that I have completed all continuing education hours required by law to renew my license."
3. Respondent's renewal application was selected for an audit to provide proof of Respondent's continuing education certificates or a transcript of completion of required hours.
4. Respondent provided proof of 16 hours of continuing education to renew Respondent's pharmacy technician registration.

CONCLUSIONS OF LAW

5. Pursuant to K.S.A. 65-1663(f)(1), 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.

6. Pursuant to K.S.A. 65-1627(a)(9), the Board may deny, revoke, suspend, or place on probation any pharmacist license upon a finding that Respondent failed to comply with the continuing education requirements of the Board for license renewal.

7. Pursuant to K.A.R. 68-5-18, 20 hours of continuing education shall be required for renewal of a pharmacy technician registration during each registration period, which must be obtained in the two-year registration period ending on the October 31 expiration date of each registration.

8. Pursuant to K.S.A. 65-1627(a)(1), the Board may take action any pharmacist license upon a finding that Respondent renewed or attempted to renew a license by false means, including misrepresentation.

9. Pursuant to K.S.A. 65-1658, in addition to any other penalty imposed by the Pharmacy Practice Act, the Board may assess a civil fine for a violation of K.S.A. 65-1627(a), in an amount not to exceed \$5,000 for each violation.

10. Respondent was required to provide proof of completion of 20 hours of continuing education earned between September 1, 2020 and October 31, 2022.

11. By only providing proof of completion of 16 hours of continuing education, Respondent failed to complete the required 20 hours of continuing education for renewal of Respondent's pharmacy technician registration, in violation of K.A.R. 68-5-18.

12. Respondent falsely attested on the renewal application that Respondent had completed all continuing education hours required by law to renew Respondent's Registration, in violation of K.S.A.

65-1627(a)(1). Though material, the Board makes no finding about whether Respondent's misrepresentation was intentional.

13. The role of the Board is to protect the citizens of Kansas. The Board regards the failure to comply with the continuing education requirements as a serious issue. Given the number of home-study, web-based, and live programs available, achieving the hours required each biennial renewal period cannot be viewed as a burden. Without continued investment in pharmacy education, the vision of quality pharmacy providers in Kansas will not be met. In order to provide safe, effective, and high quality healthcare for Kansas patients, the practice of pharmacy requires lifelong improvement and education.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board orders the following:

For Respondent's violation of K.S.A. 65-1627(a)(9) and K.A.R. 68-5-18, a fine is assessed in the amount of \$50. **Therefore, Respondent shall submit a check or money order in the amount of \$50 to the Board by April 28, 2023.**

Furthermore, an additional two hours of continuing education will be required for each hour of missing or falsified continuing education. **Respondent shall complete 8 hours of additional ACPE-approved continuing education and provide proof of completion to the Board by May 26, 2023.** If Respondent is not already signed up for the NABP CPE monitor (free version), Respondent shall create an NABP CPE monitor profile and shall ensure that proof of completion of these penalty hours and all future required continuing education appears in the CPE monitor. Completion of penalty hours shall not count toward Respondent's next continuing education renewal requirement.

NOTICES

Respondent is hereby notified as follows:

1. Respondent 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 15 days after service of this Order. If the outcome of the hearing is adverse to Respondent, costs of the proceedings shall be charged to Respondent.
2. If a hearing is not requested as described above, the Summary Order shall become a final order of the Board, effective upon the expiration of the time to request a hearing.
3. Within 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 K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review is:

Alexandra Blasi
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

IT IS SO ORDERED.

March 27, 2023

Date

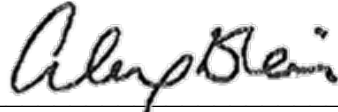


Executive Secretary

CERTIFICATE OF SERVICE

I hereby certify that I did, on March 27, 2023, 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:

THOMAS MCCARTHY
7717 N NICKERSON RD
NICKERSON KS 67561



Kansas Board of Pharmacy Staff