

September 27, 2023

Kristi McCray
716 William Street
Effingham Kansas 66023

RE: Case No. 23-254

Dear Kristi McCray:

Enclosed you will find an Amended 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)
)
Kristi McCray)
)
Applicant)

Case No. 23-254

AMENDED SUMMARY ORDER OF DENIAL

NOW, on this 27th day of September 2023, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Kristi McCray, (“Applicant”), for 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 Amended 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 February 6, 2023, 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 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. The Board received information regarding Applicant's offense history:
 - a. An April 2001 battery, domestic against a family/household member and criminal damage to property, unknown value offenses, for which Applicant was convicted of the domestic battery offense;
 - b. an October 2004 giving worthless check misdemeanor offense, for which Applicant was convicted;
 - c. a November 2004 giving worthless check misdemeanor offense, for which Applicant was convicted;
 - d. a February 2005 disorderly conduct misdemeanor offense, which was dismissed without prejudice;
 - e. a January 2005 giving worthless check, misdemeanor and contempt of court offenses, which was amended to a felony worthless check offense by the prosecutor, and for which Applicant was ultimately convicted of the misdemeanor charge;
 - f. a May 2005 giving worthless check, misdemeanor offense, for which Applicant was convicted;
 - g. a September 2005 giving worthless check, misdemeanor offense, for which Applicant was convicted;
 - h. a May 2006 aggravated battery, person felony offense;
 - i. and a June 2006 murder 2nd degree, person felony offense;
 - j. a March 2015 assault 3rd degree misdemeanor offense, for which prosecution was not filed;
 - k. a December 2017 driving while revoked/suspended misdemeanor offense; and

1. a 2018 no vehicle/title registration misdemeanor offense.
4. On February 13, 2023, the Board mailed Applicant a letter requesting a completed Form S-150, as well as certified copies of the court pleadings from each case.
5. On or about March 8, 2023, the applicant requested additional time to gather the certified copies of the court pleadings from each case, which was granted.
6. On or about March 20, 2023, the Board received the requested documentation. Applicant's S-150 statement indicated Applicant would have answered in the affirmative on Applicant's Application if she had known the background check went back 20 years, but she misunderstood. Applicant provided a letter of recommendation from her store manager and her pharmacist-in-charge. Applicant's court documents indicated the following:
 - a. In 2004, Applicant pleaded guilty to two separate counts/cases of giving worthless check misdemeanor offense and was concurrently placed on one year of unsupervised probation and required to pay costs and fines.
 - b. In 2005, Applicant pleaded no contest to two separate counts/cases of giving worthless check misdemeanor offense and was, concurrently with the 2004 offenses, placed on one year of unsupervised probation and required to pay additional costs and fines.
 - c. On March 7, 2008, the 2006 charges were dismissed with prejudice.
 - d. On November 18, 2019, a 2019 case was dismissed without prejudice.
7. To date, Applicant has not provided detailed court documents or information for each of the offenses listed in paragraph 3 of this Order.

CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1658, the Board may assess a civil fine not to exceed \$5,000, after notice and an opportunity to be heard, to any registrant for violation of the pharmacy act of the state of Kansas or any other rules or regulations of the state board of pharmacy.

2. 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.

3. Pursuant to K.S.A. 65-1627(a)(1), the Board may limit, suspend, or revoke a registration or deny the license of any pharmacist upon a finding that the licensee has obtained, renewed or reinstated, or attempted to obtain, renew or reinstate, a license by false or fraudulent means, including misrepresentation of a material fact.

4. Pursuant to K.S.A. 65-1627(a)(3), the Board may limit, suspend, or revoke a registration or deny the license of any pharmacist who has been found guilty of unprofessional conduct.

5. Pursuant to K.S.A. 65-1626(vvv)(7), unprofessional conduct means conduct likely to deceive, defraud or harm the public.

6. Applicant's answer of "no" to the disciplinary question(s) on Applicant's Application, despite a pattern of criminal arrests and offenses from 2001 to 2018, was a significant misrepresentation of material fact on an application and a basis to take action against Applicant's Application as a violation of K.S.A. 65-1627(a)(1).

7. Based on the pattern and practice of Applicant's behavior and criminal offenses from 2001 to 2018, including misdemeanor and felony arrests for giving worthless checks, failing

to maintain proper vehicle registration, and physical alterations (assault, battery), Applicant has failed to consistently follow the letter of the law. Applicant's most recent court documents are from 2019 and, therefore, Applicant has only recently demonstrated a period of five years without an a criminal arrest or charge (beginning in 2001 and representing a near 20-year criminal offense history), suggesting that while Applicant may be attempting to demonstrate rehabilitation from the previous offenses, it may be too early to allow Applicant in a pharmacy setting to ensure the protection of the public. Applicant's offenses are unprofessional conduct and a basis to deny Applicant's registration pursuant to K.S.A. 65-1627(a)(3).

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:

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.

9/27/2023

Date

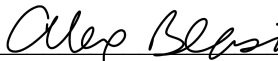
Alex Blasi

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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 25th day of May 2023, deposit in business mail a copy of the foregoing Amended Summary Order, which is then placed in the United States Mail, postage prepaid, properly addressed to the following:

Kristi McCray
716 William Street
Effingham Kansas 66023



Kansas Board of Pharmacy Staff