

BEFORE THE KANSAS BOARD OF PHARMACY

Filed By
NOV 10 2015
KANSAS STATE
BOARD OF PHARMACY

In the Matter of)
)
GEMA PAOLA MUNGUIA)

Case No. 15-116

SUMMARY ORDER OF DENIAL

NOW on this 4th day of Nov., 2015, comes before the Kansas Board of Pharmacy (the "Board"), through its Investigation Member, the application of Gema Paola Munguia (the "Applicant") 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 Procedures Act, K.S.A. 77-501, *et seq.*, the Board's Investigation Member enters this Summary Order of Denial in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

For purposes of this order, the Board's Investigative Member makes the following findings of fact:

1. The Board has received Applicant's application for registration as a pharmacy technician in the State of Kansas ("Applicant's Application").
2. As part of the Applicant's Application she answered "No" to the question: "Have you ever been cited, charged with, or convicted of the commission of any crime; offense; or violation of the law in any state or by the federal government, even if those charges were dismissed, suspended, diverted or expunged?" The application form directs that if the

applicant answers yes, the applicant “must provide a notarized written detailed explanation of the circumstances.”

3. The Applicant’s Criminal History provided to the Board by the Kansas Bureau of Investigation showed the following criminal history:

- a. On May 7, 2012, Applicant was convicted in Topeka Municipal Court for an unidentified offense.
- b. On October 31, 2014, Applicant was arrested for domestic battery.

4. As part of the Applicant’s Application she certified that the information provided was true, correct and complete and that she understood that withholding relevant information was grounds for denying her application.

5. On August 19, 2015 a representative of the Board wrote Applicant indicating the results of Applicant’s criminal history report and requesting Applicant to provide a detailed explanation as required by the application form. Applicant has never provided the Board with the detailed explanation required by the application form and requested in the August 19, 2015 letter.

CONCLUSIONS OF LAW

6. 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.

7. That the Board may take action against the license of a pharmacist for unprofessional conduct or professional incompetency as set forth in K.S.A. 65-1627(a)(3).

8. That K.S.A. 65-1626 (ccc)(1) defines unprofessional conduct to include fraud in securing a registration.

9. That, pursuant to K.S.A. 65-1627 (a)(1), the Board may take action against the license of a pharmacist if a license was obtained by fraudulent means.

10. That, pursuant to K.S.A. 65-1627 (a)(15), the Board may take action against the license of a pharmacist if the pharmacist “has failed to furnish the board, its investigators or its representatives any information legally requested by the board.”

11. The Applicant’s failure to disclose the criminal history identified in paragraph 3 above, is an attempt to obtain a registration by fraud and is a basis to deny Applicant’s Application.

12. The Applicant’s failure to respond the request by a representative of the Board for a detailed explanation regarding Applicant’s criminal history is a basis to deny Applicant’s Application.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant’s Application is hereby DENIED.

NOTICES

The Applicant is hereby notified as follows:

13. The Applicant may request a hearing pursuant to the Kansas State Administrative Procedures 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.

14. If a hearing is not requested as described above, the Order denying the Applicant's Registration, as a pharmacy technician shall become a final order of the Board, effective upon the expiration of the time to request a hearing.

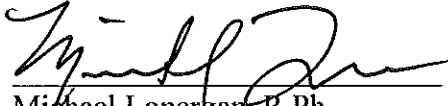
15. Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

16. 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:

Carly Haynes, R.Ph.
Acting Executive Director
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

IT IS SO ORDERED.

11-4-15
Date


Michael Lonergan, R.Ph.
Investigation Member
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 10th day of November, 2015, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order of Denial, properly addressed to the following:

Gema Paola Munguia
1347 SW Woodhull Street, Apt. 35
Topeka, KS 66604



Representative of the
Kansas Board of Pharmacy