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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

January 3, 2022

Austin Rice
14932 Rhodes Cir
Lenexa KS 66215

RE: Case No. 21-111

Dear Mr. Rice:

Enclosed you will find a Final Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety.

According to KSA 65-1627h, the Board is required to recoup the costs of administrative hearings when the decision is adverse to the licensee. The amount due is \$864 and a payment plan can be arranged for this amount.

If you have any questions, feel free to contact the Board at Pharmacy.Compliance@ks.gov.

Sincerely,

Kansas Board of Pharmacy

Enclosure

Filed By

JAN 3 2022

KANSAS STATE
BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of

Case No. 21-111

Austin Rice

FINAL ORDER

Decision

The Kansas Board of Pharmacy (Board) has carefully considered the evidence presented and reviewed the applicable statutes, regulations and policies, and hereby denies the application for a pharmacy technician registration number to be issued to Austin Rice (Rice).

Statement of Case

This matter comes on for hearing on December 2, 2021 before the Board upon the request by Rice for a hearing to review the Summary Order denying Rice's application for a pharmacy technician registration in the State of Kansas.

Appearing for the Board were: Jonathan Brunswig, PharmD, President; and members, Bill Walden, R.Ph; Terica Gatewood, PharmD; Tiffany Strohmeyer, PharmD; Erick Axcell, PharmD ; Andrew Truong, PharmD; and, Lucinda Noches Talbert, Public Member

Brenda Head appeared as the Board's disciplinary counsel.

Rice appeared in person by video conference and without counsel. Johnny Graves (Graves) appeared and testified on behalf of Rice.

Alexandra Blasi, Executive Secretary for the Board, Linda Blasi, Investigator, appeared and provided testimony for the Board.

Loren F. Snell, Jr., Administrative Law Judge, was appointed and served as the Presiding Officer over the evidentiary hearing.

Evidentiary Rulings

The Board offered Exhibits 1 through 4 for admission as evidence. Rice had no objection to admission of Exhibits 1 through 4. The Board's Exhibits 1 through 4 were admitted. Upon the request by Disciplinary Counsel for the Board, Exhibits 1 and 2 were sealed because they contain personal and confidential information.

Prior to being sworn in, Disciplinary Counsel for the Board raised an objection to witness, Johnny Graves because Rice had failed to name Graves as a witness in a timely manner. Having heard the arguments of counsel and Rice, the Presiding Officer permitted Graves to testify.

Findings of Fact

1. On April 29, 2021 the Board received a Registration Application from Rice seeking a Pharmacy Technician registration number permitting Rice to operate as a pharmacy technician in the State of Kansas. (Exhibit 1) On the application, Rice was asked if he had been charged or convicted of a criminal offense or is there a criminal charge now pending against you in any state or federal court whether or not a sentence was imposed, suspended, or diverted. Rice responded by marking "Yes." Rice also included a Form S-150: Personal History, with a statement concerning the charges and conviction(s) or diversion(s).
2. Rice included a statement concerning a 2017 Driving Under the Influence of alcohol and/or drugs (DUI) charge for which Rice completed a diversion in February 2021.
3. Rice also described a 2019 drug rehabilitation period.
4. On May 11, 2021 the Board requested that Rice provide the Board with a more detailed statement regarding the 2017 DUI and the 2019 rehabilitation period.
5. On May 19, 2021 the board received an additional statement from Rice.
6. According to Rice's statement, in 2017 Rice was running errands after having taken

his “normal dosage” of medication. Rice was stopped by the Prairie Village Police Department and failed a field sobriety test. Rice was arrested under suspicion of DUI. Rice entered into a Diversion Agreement with the City of Prairie Village, Kansas, on November 21, 2019. Rice successfully completed the Diversion Agreement in February of 2021 and the charges were dismissed. Rice stated that after the DUI he had decided not to drive after taking his medication and then decided to stop taking the medication altogether.

7. Rice acknowledged he had been abusing prescription pain medication such as Hydrocodone “[f]or about a year or two prior to going to Recovery Unplugged in August or September 2019.” Rice voluntarily submitted himself to a 30-day drug rehabilitation program.

8. Rice testified he was applying for a pharmacy technician registration, so he could advance at his current employer, Walgreens. Rice testified he was currently an “Inventory Specialist” and was not looking to work in the pharmacy but acknowledged he would have access to the pharmacy and may be required to assist in the pharmacy if he was placed in a management position for Walgreens.

9. Rice testified he had been “clean” for two (2) years and passed all the urinalysis tests that had been administered. Rice further testified he had no need or drive to obtain drugs.

10. Graves testified he is a licensed addiction counselor, familiar with Rice. Graves testified to the progress Rice has made in treatment.

Applicable Statutes, Regulations and Policies

“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.”¹

“The board may revoke, suspend, place in a probationary status or deny an application or renewal of any license of any pharmacist upon a finding that: (3) the licensee has failed to furnish the board, its investigators or its representatives any information legally requested by the board.”²

Unprofessional conduct is defined as “conduct likely to deceive, defraud or harm the public.”³

Decision

The Board considered that Rice, as a pharmacy technician, would have access to the drugs that served as the source of his addiction.

The Board voted 5-0 to deny Rice’s application for a pharmacy technician registration number. The Board incorporates herein by reference the Conclusions of Law set forth in the July 29, 2021 Summary Order of Denial in support of its decision. Because Rice did not prevail, he is also ordered to pay the costs of the hearing in the amount of \$864 pursuant to K.S.A. 65-1627h.

Dec 31, 2021

Date

Dr. Jonathan W. Brunswig, PharmD
Dr. Jonathan W. Brunswig, PharmD (Dec 31, 2021 12:47 CST)

Jonathan Brunswig, PharmD, President
Kansas Board of Pharmacy

¹ K.S.A. 65-1663(f)(1).

² K.S.A. 65-1627(a).

³ K.S.A. 65-1626(uuu)(7).

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.⁴
3. Either party to this agency proceeding may seek judicial review of the Final Order by filing a timely petition in the District Court.⁵ 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:

Alexandra Blasi, Executive Secretary
Kansas State Board of Pharmacy
800 SW Jackson #1414
Topeka, KS 66612-1244

⁴ K.S.A. 77-529.

⁵ K.S.A. 77-613.

Certificate of Service


On January 3rd, 2022 I certify that a copy of the foregoing was deposited in business mail which is then placed in the United States first class mail, postage prepaid, addressed to:

Austin Rice
14932 Rhodes Cir.
Lenexa, KS 66215

Brenda Head
Frieden & Forbes, LLP
1414 SW Ashworth Place, Ste 201
Topeka, KS 66604

and, I further certify that I caused a copy of the foregoing to be hand-delivered to:

Alexandra Blasi
Executive Secretary
Kansas State Board of Pharmacy
800 SW Jackson #1414
Topeka, KS 66612-1244



Staff Person
Kansas Board of Pharmacy