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KANSAS STATE  
Board of Pharmacy

BEFORE THE KANSAS STATE BOARD OF PHARMACY

In the Matter of the Application of )  
Kyle A. Scherich, for a )  
Pharmacy Intern License. )

Case No.: 11-91

SUMMARY ORDER

NOW this 21<sup>st</sup> day of September, 2011, the above captioned matter comes before the Kansas State Board of Pharmacy ("Board") on the application of Kyle A. Scherich ("Respondent") for a Pharmacy Intern License. After considering the foregoing, the Board enters the following Summary Order:

FACTS

1. Respondent is a resident of 861 Roach St., Salina, Kansas 67401.
2. On July 29, 2011, Respondent applied to the Board for a Pharmacy Intern License.
3. The Board has the authority to grant Respondent a Pharmacy Intern License.
4. The Board's application for a Pharmacy Intern License states that: "Failure to disclose any of the requested information may result in the denial of your application or other appropriate action."

5. Part Three further states that "All 'Yes' answers MUST be explained in detail in a separate SIGNED and NOTARIZED affidavit."

6. Question 22 of Part Three of the application for Pharmacy Intern License ("Application") asks: "Have you ever been charged with, or convicted (including a nolo contendere plea or guilty plea) of a criminal offense in any state or in federal court (other than minor traffic violations) whether or not sentence was imposed or suspended?" Respondent responded "NO."

7. Respondent responded with a "Yes" answer to Question 22 of Part Three.

8. Respondent provided a signed, notarized affidavit disclosing:

- a. Respondent's 2002 citation for Minor in Possession in Coldwater, Kansas, which was disposed of through a diversion agreement;
- b. Respondent's Fall 2007 citation for Minor in Consumption of Alcohol in Lawrence, Kansas, which was disposed of through a diversion agreement; and
- c. Respondent's Spring 2010 citation in Lawrence, Kansas for possession of Marijuana, which will be disposed of through a diversion agreement ending September 14, 2011.

9. The Kansas Bureau of Investigation did a criminal background search on Respondent and provided the Board with an Abstract of Criminal History, more commonly known as the RAP Sheet.

10. Respondent's RAP Sheet states substantiates Respondent's affidavit.

#### CONCLUSIONS OF LAW AND FACT

For purposes of this order, the Board's Investigation Member makes the following conclusions of law and fact:

1. Respondent is a student at the University of Kansas School of Pharmacy.
2. Respondent has applied to the Board for a Pharmacy Intern License.
3. It is unlawful “for any person to be a pharmacy student without first obtaining a registration by the board . . .” K.S.A. § 65-1643(i).
4. Pursuant to K.S.A. § 65-1627a, the Board may limit, suspend, or revoke a registration or deny an application for issuance or renewal of any license, registration or permit issued by the Board 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.
5. Kansas administrative agencies have no common-law powers. Any authority claimed by an agency or board must be conferred in the authorizing statutes either expressly or by clear implication from the powers granted. *See Pork Motel, Corp. v. Kan. Dept. of Health & Envir.*, 234 Kan 374, 378, 673 P.2d 1126 (1983).
6. The Board has explicit authority to limit the licensure of a pharmacy student.
7. Question 22 of Part Three of the application for Pharmacy Intern License (“Application”) asks: “Have you ever been charged with, or convicted (including a nolo contendere plea or guilty plea) of a criminal offense in any state or in federal court (other than minor traffic violations) whether or not sentence was imposed or suspended?” Respondent responded “YES.”
8. Respondent truthfully responded to the question stated above and provided a notarized, signed affidavit disclosing the nature and locations of his prior arrests and charges.

ORDER

WHEREFORE, the Board, having considered the facts and law, hereby GRANTS Respondent's application for Pharmacy Intern licensure with the following conditions:

1. Respondent's license is placed on probation for a period of one year from the date this order becomes a final order.
2. Respondent is ordered to participate in the KPhA/CIPP program for a period of time to be determined by the CIPP administrator/manager/evaluator.
3. Upon the failure of Respondent to follow the Kansas Pharmacy laws and/or if Respondent violates the terms of this probation, Respondent's license will be revoked.
4. Upon successful completion of the term of probation, Respondent's licensure as a pharmacy intern will be granted without restriction. If Respondent successfully completes the term of probation, no further order of the Board will be necessary.

NOTICES

Respondent is hereby notified as follows:

1. Respondent 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.
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 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 § 77-613. The agency officer designated to receive service of a petition for judicial review is:

Debra Billingsley  
Executive Director  
Kansas Board of Pharmacy  
800 SW Jackson, Suite 1414  
Topeka, KS 66612.

IT IS SO ORDERED.

9-20-2011

Date



David R. Schoech

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 21<sup>st</sup> day of September, 2011, deposit in the United States Mail, postage prepaid, a copy of the foregoing Amended Summary Order, properly addressed to the following:

Kyle A. Scherich  
861 Roach St.  
Salina, KS 67401.



Holly Fisher, Compliance Counsel