

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
) Case No. 06-93
ROBERT C. SIMS,)
Kansas License Applicant.)

FINAL AGENCY ORDER

On December 5, 2006, a hearing was held before the Kansas Pharmacy Board (the "Board") on the petition of Robert C. Sims ("Sims") seeking reinstatement of his license to practice pharmacy in Kansas. After considering the evidence admitted at the hearing, as well as the proposed findings of fact, conclusions of law, and arguments submitted by counsel, the Board enters the following final agency order.

I. FINDINGS OF FACT

1. On June 9, 1988, Sims voluntarily surrendered his license, number 10882, to practice pharmacy in the State of Kansas. [Exhibit 1, Tab 1].
2. On August 17, 1989, Sims entered into a Voluntary Stipulation and Agreement, whereby his license to practice pharmacy in the State of Kansas was reinstated on a probationary status for a period of five (5) years on the condition that he remained in the Kansas Impaired Pharmacist Program during the period of probation. [Exhibit 1, Tab 2].
3. On September 9, 1991, Sims entered into a Stipulation in Lieu of Formal Hearing, whereby his license was placed on probation for five (5) years on various conditions, including active participation and cooperation in an impaired drug program. [Exhibit 1, Tab 3].
4. On February 19, 1992, the Board filed a Petition for the Revocation, Suspension, Probation and Non-Renewal of License against Sims, alleging that he failed to actively participate and cooperate in an impaired drug program. [Exhibit 1, Tab 4].

5. On March 20, 1992, the Board entered an Agreed Order, whereby Sims agreed to the indefinite suspension of his license for failure to comply with the conditions of probation as set out in the September 9, 1991 Stipulation in Lieu of Formal Hearing. Sims executed the Agreed Order on March 12, 1992. [Exhibit 1, Tab 5].

II. CONCLUSIONS OF LAW AND FACT

A. The Board has discretion in determining whether Sims' license to practice pharmacy in Kansas should be reinstated and the burden to prove his fitness to do so. *Vakas v. Kansas Board of Healing Arts*, 248 Kan. 589, 808 P.2d 1355 (1991).

B. The Board should consider the following factors in determining whether to grant reinstatement:

1. The present moral fitness of Sims;
2. Whether Sims demonstrated consciousness of the wrongful conduct and disrepute which his conduct has brought the profession;
3. The extent of his rehabilitation;
4. The seriousness of his original conduct;
5. His conduct subsequent to his discipline;
6. The time that has elapsed since his original discipline;
7. His character, maturity, and experience at the time of the original license suspension; and
8. His present competence in pharmacy skills.

C. Sims has failed to provide the Board with any information that he is in compliance with the Agreed Order dated March 20, 1992, or any proof that would show the extent of his rehabilitation.

III. FINAL ORDER

Based upon the evidence introduced at the hearing held December 5, 2006, and the foregoing findings and conclusions, Sims' request for reinstatement of his license to practice pharmacy in Kansas is hereby denied. The Board shall not consider the reinstatement of Sims' License until he comes into full compliance with the Agreed Order dated March 20, 1992.

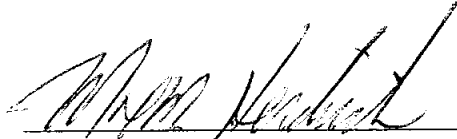
Within fifteen (15) days after service of this Final Agency Order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

Within the time limits established in K.S.A. 77-613, either party may seek judicial review of this Final Agency Order, pursuant to said statute. The agency officer designated to receive service of a petition for judicial review is as follows:

Debra L. Billingsley
Executive Director
Kansas Board of Pharmacy
900 SW Jackson, Suite 560
Topeka, Kansas 66612-1231

IT IS SO ORDERED.

1-30-07
Date



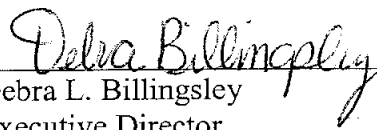
MAX HEIDRICK, R.PH.
President
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing FINAL AGENCY ORDER was sent by United States Mail, postage prepaid, on this the 12 day of February, 2007, and properly addressed to the following:

Robert C. Sims
2936 Atchison Circle
Lawrence, Kansas 66047

Randall J. Forbes, Esq.
Frieden & Forbes
555 South Kansas Avenue, Suite 303
Topeka, Kansas 66603



Debra L. Billingsley
Executive Director
Kansas Board of Pharmacy