

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of

Malcolm Starks

Case No. 16-179

FINAL ORDER

Statement of Case

This matter comes on for hearing before the Kansas Board of Pharmacy (Board) for review of the pharmacy technician application of Malcolm Starks ("Applicant").

The hearing in this matter was scheduled to convene on January 6, 2017. The Board members are: President, John Worden PharmD; Vice President, Michael Lonergan R.Ph; and members, Robert Haneke, PharmD; James Garrelts, PharmD;, R.Ph.; David Schoech, R.Ph.; Chad Ullom, R.Ph.; and Cheri Pugh.

CONCLUSIONS

1. On October 21, 2016, the Board ordered and certified for service a Summary Order of Denial pertaining to Applicant's application for licensure as a pharmacy technician in the State of Kansas.
2. On November 4, 2016, Applicant's counsel contacted the Board and requested a hearing to contest the Summary Order of Denial.
3. On March 27, 2017, Applicant's counsel contacted the Board indicating that Applicant withdrew his request to appeal the Board's Summary Order of Denial.
4. This Final Order hereby adopts the entirety of the Statement of Facts and Conclusions of Law sections as stated in the Summary Order of Denial issued to

Applicant.

5. Based on the aforementioned facts and statements of law, Applicant's application for a pharmacy technician registration in the state of Kansas **is denied**.

IT IS SO ORDERED.

4/19/17
Date

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

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 pursuant to K.S.A. 77-529.
3. Either party to this agency proceeding may seek judicial review of the Final Order by filing a timely petition in the District Court as authorized by K.S.A. 77-613. 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

CERTIFICATE OF SERVICE

On this 19 day of April, 2017, I mailed a copy of this document to:

Malcolm Starks
7109 Bales Ave
Kansas City, MO 64132

Kevin E Dellett
4630 W 137th St, Ste 200
Leawood, KS 66224



Staff Person

Filed By
OCT 21 2016
KANSAS STATE
BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Malcolm Starks)
_____)

Case No. 16-179

SUMMARY ORDER OF DENIAL

NOW on this 21 day of October, 2016, comes before the Kansas Board of Pharmacy (the "Board"), through its Investigation Member, the application of Malcolm Starks (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 Procedure 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. On or about September 14, 2016, the Board received Applicant's application for registration as a pharmacy technician in the State of Kansas ("Applicant's Application").
2. As part of Applicant's Application he answered "No" to the question: "Have you been 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?”

3. On September 19, 2016, Applicant was arrested for possession of Schedule 1 substances and Schedule IV controlled substances as described by K.S.A. 65-4105(g) and 64-4111(c)-(g).

4. On that date, Applicant was also arrested for possession with intent to use drug paraphernalia as described by K.S.A. 21-5709.

CONCLUSIONS OF LAW

5. 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.

6. That pursuant to K.S.A. 65-1627(a)(5), the Board may deny the renewal of a license to a pharmacist if the licensee has violated a provision of the federal or state food, drug and cosmetic act, the uniform controlled substances act of the state of Kansas, or any rule and regulation adopted under any such act.

7. That pursuant to K.S.A. 65-1627(a)(3), the Board may deny the renewal of a license to a pharmacist if the licensee is found by the Board to be guilty of unprofessional conduct.

8. That pursuant to K.S.A. 65-1626(ccc)(5), unprofessional conduct means unlawful possession of drugs.

9. That pursuant to K.S.A. 65-1626(ccc)(7), unprofessional conduct means conduct likely to defraud or harm the public.

10. Applicant's possession and intent to use a controlled substance constitutes a violation of K.S.A. 1627(a)(3) and (a)(5),

11. Applicant has therefore demonstrated unprofessional conduct pursuant to K.S.A. 65-1626(ccc)(5), providing a basis to deny Applicant's Application pursuant to K.S.A. 65-1627(a)(3).

ORDER

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

NOTICES

Applicant is hereby notified as follows:

12. 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.

13. If a hearing is not requested as described above, the Order denying 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.

14. 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.

15. 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

In the Matter of Malcolm Starks, No. 16-179

SUMMARY ORDER OF DENIAL

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Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

IT IS SO ORDERED.

10/21/2016

Date

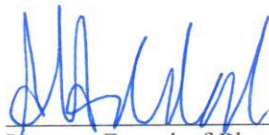


David Schoech, R.Ph.
Investigation Member
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 21 day of October, 2016, deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order of Denial, properly addressed to the following:

Malcolm Starks
7109 Bales Ave
Kansas City, MO 64132



Kansas Board of Pharmacy Staff