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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

August 6, 2024

Joseph Oland
15304 W 83rd Terr
Lenexa KS 66219

RE: Case No. 24-183

Dear Mr. Oland:

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.

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

Sincerely,

Kansas Board of Pharmacy

Enclosure

cc:
Diane Bellquist
Joseph Hollander & Craft LLC
1508 SW Topeka Blvd
Topeka KS 66612

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of

Case No. 24-183

Joseph Michael Oland

FINAL ORDER

Decision

Having heard the testimony of the witness(es), considered the evidence presented, reviewed the applicable statutes, regulations and policies, and otherwise being duly and fully informed in the premises of this matter, it is the decision of the Kansas Board of Pharmacy (Board) that the Emergency Order suspending the Kansas pharmacy technician registration issued to Joseph Michael Oland (Oland) be affirmed and modified as set forth hereinbelow.

Statement of Case

On July 11, 2024, the Board convened a hearing to review the Emergency Agency Order issued on April 29, 2024, pursuant to Oland’s Petition for Reconsideration of Emergency Agency Order.

Appearing for the Board were: Terica Gatewood, Pharm D, President; Erick Axcell, Pharm D, Vice President; and members Tiffany Strohmeyer, Pharm D; Andrew Truong, Pharm D; and Lucinda Noches Talbert, Public Member.¹

Oland appeared in person and with counsel, Diane Bellquist, Attorney.

Brenda Head (Head) appeared as Disciplinary Counsel for the Board. Alexandra Blasi (Blasi), Executive Secretary of the Board, appeared and testified.

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

Evidentiary Rulings

Head offered Exhibits 1 through 9 and 10R for admission as evidence. It was requested that Exhibits 6 and 7 be filed under seal because they contained protected health information. Oland had no objection to the admission of the exhibits offered by Head. Exhibits 1 through 9 and 10R were admitted as evidence. Exhibits 6 and 7 were admitted under seal.

Oland offered Exhibit A and requested that it be sealed because it contained protected health information. Head had no objection. Exhibit A was admitted as evidence, under seal.

¹ Member Bill Walden, RPh, was present for a portion of the hearing but had to leave before the hearing was concluded and did not participate in the deliberations or decision.

Oland requested that the proceedings be closed for certain testimony that would involve protected health information. The witnesses to present such testimony were identified and it was agreed that the proceedings would be closed to the public during the testimony of those witnesses. Specifically, the proceedings were to be closed during the testimony of Blasi and Oland.

Findings of Fact

1. The Board issued Pharmacy Technician Registration Number 14-111498 to Oland allowing Oland to perform the functions of a pharmacy technician in the State of Kansas.

2. Oland is employed as a pharmacy technician at Walgreens #4186 located at 15100 W. 87th St. Pkwy., Lenexa, Kansas (Walgreens #4186). Oland testified he had been placed on leave by his employer until July 10, 2024, and had not returned to his employment as of the date of the hearing.

3. On March 24, 2024, two (2) employees at Walgreens #4186 expressed concerns regarding Oland's behavior, appearance, speech, and the odor of alcohol at about 7:00 and 9:00 p.m. Because it was during the end of Oland's shift, testing was not able to be performed on Oland. [Exhibit 2].

4. On March 27, 2024, at approximately 11:00 a.m., two (2) employees at Walgreens #4186 observed Oland to be agitated, anxious, restless, hostile, loud, and boisterous, and they smelled an odor of alcohol on Oland. [Exhibit 3].

5. On March 27, 2024, based upon the observations, Oland was tested by breathalyzer for alcohol at 12:14 p.m. and 12:30 p.m. The results were .217 and .212 Blood Alcohol Content (BAC). [Exhibit 4]. Testing was conducted by Fastest Labs of Lenexa.

6. Based upon the results of the breathalyzer testing, Walgreens #4186 determined Oland was Unfit for Duty. [Exhibit 1].

7. Also on March 27, 2024, Oland was subject to urine testing. The test resulted in a positive result for marijuana. [Exhibit 5].

8. Oland prepared a written statement. [Exhibit 6]. Oland acknowledged he had been drinking, and that his "last beverage could have been within an hour of my having arrived at work." Oland also acknowledged having consumed marijuana approximately a week prior to the events that led to the testing. Oland described consultations he had with a behavioral and addiction specialist for a three (3) year period and admitted to his current relapse.

9. Blasi was granted authority to enter emergency agency orders, pursuant to the Board's delegation of authority policy adopted on November 27, 2018, and re-approved on October 13, 2021.

10. Having considered the information available to her, Blasi issued the Emergency Agency Order on April 29, 2024, suspending Oland's pharmacy technician registration until further order of the Board. [Exhibit 7]. Blasi concluded that Oland's addiction to and being under the influence of alcohol would impair him to the point that he would pose an immediate danger and significant risk to the public health, safety and welfare. In order to prevent or avoid immediate danger to the public health, safety and welfare, Blasi concluded the least restrictive means would be to suspend Oland's registration.

11. Oland testified that he exercised poor judgment and should have called in rather than working but did not want to get in trouble for not working.

12. Oland testified that he did not think he had practiced impaired but did likely have some amount of alcohol in his system. He pointed out that he did not cause harm, no issues were raised by the public and there were no errors made.

13. Oland pointed to the fact that he accepted responsibility for his actions, referring to the letter he had written to his employer. [Exhibit 6].

14. Oland testified that he started intensive outpatient courses on April 8, 2024, and was attending three (3) days per week for three (3) hours per session.

15. Oland testified that he would be willing to undergo monitoring by the Kansas Pharmacist Recovery Network (KsPRN).

16. Oland had undergone therapy and treatment for substance use since May 20, 2020. [Exhibit A – SEALED].

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.”²

“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 is found by the board to be guilty of unprofessional conduct or professional incompetency; or (4) the licensee is addicted to the liquor or drug habit to such a degree as to render the licensee unfit to practice the profession of pharmacy.”³

² K.S.A. 65-1663(f)(1).

³ K.S.A. 65-1627(a).

Decision

“It is the function of the administrative hearing body to determine the weight or credibility of the testimony of witnesses.”⁴

In determining credibility, it is not only the testimony provided during the evidentiary hearing, but also includes an evaluation of the evidence presented on the record.

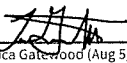
There is little question as to whether Oland engaged in the conduct that led to the Emergency Agency Order.

The Board did not question Oland’s credibility, as he had acknowledged he had engaged in the conduct that resulted in his emergency suspension. Rather, the Board questioned the genuineness of the testimony offered by Oland. The Board concluded that more time was needed to allow Oland to demonstrate the sobriety that he testified he was maintaining.

The Board voted 4-0 to uphold the suspension of Oland’s Pharmacy Technician Registration for a period of one (1) year from the date of the Emergency Agency Order April 29, 2024.⁵ Oland is ordered to reappear before the Board prior to the conclusion of the one (1) year suspension. Oland is ordered to undergo a mental health evaluation and provide a copy of said evaluation to Board at least three (3) months prior to reappearing before the Board. Oland is ordered to begin or continue therapy and provide documentation of such to the Board when he reappears. Oland is ordered to provided two (2) letters of recommendation from his employer(s) to the Board three (3) months prior to reappearing before the Board. Finally, Oland is ordered to remain current on his continuing education and other registration requirements.

Aug 5, 2024

Date


Terica Gatewood (Aug 5, 2024 16:59 CDT)

Terica Gatewood, PharmD, President
Kansas Board of Pharmacy

⁴ *Lacy v. Kansas Dental Board*, 274 Kan. 1031, 1047-48, (2002) (citing *Swezey v. State Department of Social & Rehabilitation Services*, 1 Kan. App. 2d 94, 98, 562 P. 2d 117 (1977)).

⁵ Board member A. Truong recused himself from the deliberations and decision.

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 August 6, 2024, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:


Joseph Oland
15304 W. 83rd Terr.
Lenexa, KS 66219

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

Diane Bellquist
Joseph Hollander & Craft LLC
1508 SW Topeka Blvd.
Topeka, KS 66612

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