

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
) Case No. 23-436
MATTHEW S. RICKE, R.Ph.)
Kansas License No. 1-16707)
_____)

AMENDED SUMMARY ORDER

NOW on this 3rd day of June, 2024, comes before the Kansas Board of Pharmacy (“Kansas Board”), through its Investigation Member, the matter of Matthew S. Ricke (“Licensee”).

Pursuant to the authority granted to the Board by the Kansas Pharmacy Act, K.S.A. 65-1625, *et seq* (“Pharmacy Act”), and in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board’s Investigation Member enters this Amended Summary Order in the above-captioned matter which amends the Summary Order issued May 17, 2024. After reviewing the investigative materials, the Board’s records and being otherwise duly advised in the premises, the Investigation Member 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. The Kansas Board has previously issued Licensee a Kansas Pharmacist License #1-6707 on June 15, 2015.
2. During all times relevant hereto, Licensee was the Pharmacist-in-Charge (“PIC”) at AuBurn Pharmacy #145 (“Pharmacy”), License Number 2010091, located at 1012 Poplar, Suite A, Wellsville, Kansas 66092.

Matter of Matthew S. Ricke, R.Ph., No. 23-436 (Kan. Bd. of Pharmacy)

AMENDED SUMMARY ORDER

Page 1 of 7

3. On March 22, 2023, the Board received notification from the Pharmacies Director of Retail Pharmacy at the Pharmacy that the Licensee and PIC at the Pharmacy in Wellsville, Kansas was terminated on March 21, 2023 following an internal investigation involving numerous patient and employee complaints.

4. The Pharmacy's internal investigation revealed the following:

- a. On more than one occasion, Licensee sent texts to a Pharmacy patient requesting sexual favors in exchange for controlled substances from his personal supply. At his termination meeting, Licensee admitted to sending a produced text, but claimed that it "was a drunken night";
- b. Numerous suspicious transactions were discovered in which the Licensee waived co-pays or out-of-pocket costs and priced prescriptions at or below acquisition cost, most of which involved controlled substances;
- c. Four instances were discovered in which a patient paid with cash at the register for their prescription and later the Licensee voided the transaction and reprocessed the prescription at no cost;
- d. Licensee made a verbal threat on two occasions to two different Pharmacy employees directed towards the AuBurn Pharmacy VP; and
- e. On numerous occasions Licensee was observed to be rude, disrespectful and belittling to patients and staff.

5. On April 11, 2023, the Board received a complaint against Licensee from Patient #1 in which she stated Licensee propositioned her for sex in exchange for Adderall, a controlled substance, on at least twelve (12) occasions over the past six (6) years. Patient #1 produced a copy of the text exchange between herself and Licensee in which Licensee sought sex in exchange for drugs.

6. On July 19, 2023, the Board received a complaint from Patient #2 in which it was stated that Licensee, while working alone at the Pharmacy on October 14, 2021, made an unwanted

sexual advance towards Patient #2 and offered to exchange Tramadol or Percocet for sex. Pharmacy records confirmed Licensee was working alone at the time of the proposition.

7. According to the allegations contained in the Complaint submitted to the Board by Patient #2, after Patient #2 left the Pharmacy on October 14, 2021, Licensee contacted Patient #2 on her cell phone.

8. Patient #2's husband contacted the Pharmacy instructing the Pharmacy to change their contact information to delete Patient #2's cell number and to add her husband's cell number for all contact by the Pharmacy.

9. According to the allegations contained in the Complaint submitted to the Board by Patient #2, thereafter, Licensee continued to contact Patient #2 on her cell phone and offered sex in exchange for prescription drugs, although her contact number at the Pharmacy was to have been changed. Patient #2 rejected Licensee's proposal and informed him his behavior was unprofessional.

10. Patient #2 attempted to transfer their prescriptions to another pharmacy to avoid Licensee, but she was instructed she was only able to use the Pharmacy in Wellsville.

11. The Pharmacy records confirm Patient #2's phone number in the Pharmacy system was changed on nine (9) occasions, eight (8) of which were made by Licensee against Patient #2's specific requests.

12. On June 12, 2023, the Board sent a letter to Licensee at his address of record requesting the completion of forms and responsive information concerning these issues which was returned as undeliverable on July 11, 2023.

13. Licensee did not update his current address via the e-License portal until August 5, 2023.

CONCLUSIONS OF LAW

14. Pursuant to K.S.A. 65-1627(a)(3) and K.S.A. 65-1626(vvv)(9), the Kansas Board may revoke, suspend or place in probationary status the license of any pharmacist found by the Board to be guilty of unprofessional conduct, including the commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice.

15. Licensee's actions set forth in the above findings of fact constitutes unprofessional conduct which is the basis to discipline Licensee and place Licensee's license on probationary status for a period of forty (40) years.

16. Pursuant to K.S.A. 65-1633, every pharmacist who changes residential address or email address shall within 30 days thereof notify the secretary of such change on a form prescribed and furnished by the Board.

17. Licensee failed to comply with the requirements of K.S.A. 65-1633 in violation of the Pharmacy Act.

18. Pursuant to K.S.A. 65-1627(a)(8), the Kansas Board may revoke, suspend or place in probationary status the license of any pharmacist upon a finding that the licensee has violated any provision of the pharmacy act of the State of Kansas or any rule and regulation adopted by the Board pursuant to the provisions of such pharmacy act.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Licensee's license #1-16707 is hereby placed on PROBATION for a period of forty (40) years with the following terms and conditions of probation:

- i. Licensee shall not serve as a Pharmacist-in-Charge ("PIC") or Preceptor;
- ii. Licensee shall never work alone when the pharmacy is open or closed;

Matter of Matthew S. Ricke, R.Ph., No. 23-436 (Kan. Bd. of Pharmacy)

AMENDED SUMMARY ORDER

- iii. Licensee shall not waive any patient co-pays or out-of-pocket expenses, alter the price of any prescriptions, or process any cash transactions from any patients;
- iv. Licensee shall not message or email any patient regarding prescription medications;
- v. Licensee shall limit all patient communications to the practice of pharmacy;
- vi. Licensee shall have no direct in-person patient contact;
- vii. Licensee shall provide any pharmacy or drug-related employer a copy of this Amended Summary Order and provide the Board with an acknowledgment of receipt by the employer's PIC;
- viii. Licensee shall complete a drug test conducted through the Kansas Pharmacists Association's Kansas Pharmacists Recovery Network ("KsPRN") program within thirty (30) days of this Amended Summary Order with a copy provided to the Board;
- ix. Licensee shall have a mental health evaluation completed through the KsPRN program within sixty (60) days of this Amended Summary Order with a copy provided to the Board;
- x. Licensee shall comply with the terms of any court-imposed sentence, diversion, probation;
- xi. Licensee shall notify the Board of any change in court status within 10 days of the change;
- xii. Licensee shall notify the Board of any arrest or criminal charge within 10 days of the date of the arrest or charge;
- xiii. Licensee shall notify the Board of any change in employment within 10 days of the change;
- xiv. Licensee shall fully comply with the Pharmacy Act of the state of Kansas, the Board's rules and regulations and all state and federal laws relating to Kansas pharmacies; and
- xv. Licensee may request the Board to consider release from probation after the successful completion of ten (10) years from the date of this Amended Summary Order.

NOTICES

The Licensee is hereby notified as follows:

19. The Licensee 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.

20. If a hearing is not requested as described above, this Amended Summary Order subjecting Licensee's license to probation as set forth herein shall become a final order of the Kansas Board, effective upon the expiration of the time to request a hearing.

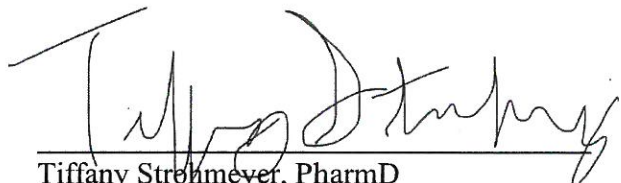
21. Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

22. 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
Executive Secretary
Kansas Board of Pharmacy
800 SW Jackson, Suite 1414
Topeka, KS 66612

IT IS SO ORDERED.

06-03-2024
Date


Tiffany Strohmeier, PharmD
Investigation Member
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 3rd day of June, 2024, deposit in the United States Mail, postage prepaid, a copy of the foregoing Amended Summary Order, properly addressed to the following:

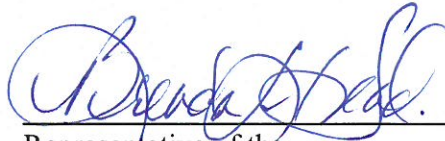
Matthew S. Ricke
305 Benton Dr.
Wellsville, KS 66092

and via email of Board record to:

mricke09@gmail.com

and via email to:

Licensee's Counsel
Stephen H. Netherton via email: netherton@hitfanning.com



Representative of the
Kansas Board of Pharmacy