

May 24, 2024

Nicole Wakes
6327 Cottonwood Dr
Shawnee KS 66216

RE: Case No. 24-213

Dear Ms. Wakes:

Enclosed you will find a Summary Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety.

If you disagree with the findings of fact, you have the right to request a hearing. Instructions for filing a written request are included under the "Notices" section of the order. Hearings are held before the full Board during their regularly scheduled quarterly meetings.

According to KSA 65-1627h, the Board is required to recoup the costs of administrative hearings when the decision is adverse to the licensee. These costs may include charges for services rendered by the Board's disciplinary counsel, an administrative law judge, and, if applicable, a court reporter.

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

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
Nicole Wakes)
)
Registration No. 24-16209)

Case No. 24-213

SUMMARY ORDER

NOW, on this 24th day of May, 2024, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Nicole Wakes, (“Applicant”), for application 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 Executive Secretary enters this Summary Order in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order.

FINDINGS OF FACT

1. The Board has previously issued Applicant Pharmacy Technician Registration Number 14-16209 on May 6, 2014, authorizing Applicant to perform the functions of a pharmacy technician in the State of Kansas. The registration expired for nonrenewal on October 31, 2015.

2. On January 19, 2024, the Board received Applicant’s new application for registration as a pharmacy technician in the State of Kansas (“Applicant’s Application”).

3. Applicant answered “Yes” to the following question on her application: “Have you been charged with or 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.” The application directs that if the applicant answers yes, the applicant must attach a Form S-150: Personal History (“Form S-150”).

4. In conjunction with Applicant’s Application, Applicant provided an S-150 statement with information regarding two DUI convictions and discussing Applicant’s inpatient and outpatient treatment.

5. The Board received information regarding the following criminal offenses charged against Applicant: 2014 criminal damage to property offense; 2014 violation of protection order; 2014 disorderly conduct, brawling or fighting; 2017 driving under influence of alcohol or drugs; 2019 driving while license cancelled, suspended, revoked; 2023 DUI-3rd conviction in 10 years.

6. On January 23, 2024, the Board mailed Applicant a letter requesting a more detailed Form S-150 containing information for all offenses, as well as certified copies of the court pleadings from each case.

7. On or about February 6, 2024, the Board received the requested documentation, which identified the following criminal offenses against Applicant:

- a. 2014 Criminal Damage to Property. Charges against Applicant were dismissed.
- b. 2014 Violation of Protection Order. Applicant pleaded guilty and was sentenced to 90 days in jail (which was suspended) and a fine.
- c. 2014 Disorderly Conduct – brawling or fighting. Applicant pleaded no contest and paid a \$125 fine.
- d. 2017 DUI – 2nd offense. Applicant pleaded guilty and was sentenced to a one-year probation, including outpatient treatment, random drug screens, and fines/costs.

In October 2018, Applicant's probation was revoked for a missed UA and failure to complete community service. As a result, Applicant's probation was extended by three months.

- e. In November 2018, Applicant was ticketed for a car accident, driving while license cancelled, suspended, or revoked, no proof of insurance, and speed limitations. Applicant pleaded no contest to the charges and was sentenced to 5 days in jail (suspended), fines, and restitution.
- f. On November 22, 2023, Applicant was charged with DUI and driving while suspended.

8. On April 2, 2024, the Board received a copy of the proposed plea agreement dated March 22, 2024, for Applicant's pending 2023 DUI charge. The plea agreement indicates Applicant will plead guilty to felony DUI (third offense) and the driving while suspended charge will be dismissed. Applicant will serve probation and pay fines/fees.

CONCLUSIONS OF LAW

1. 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.

2. Pursuant to K.S.A. 65-1627(a)(2), the Board may place in a probationary status the license of any pharmacist upon a finding that the licensee has been convicted of any felony or misdemeanor of gross immorality or moral turpitude, and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust.

3. Pursuant to K.S.A. 65-1627(a)(3), the Board may place in a probationary status the license of any pharmacist who has been found guilty of unprofessional conduct.

4. Pursuant to K.S.A. 65-1626(vvv)(7), unprofessional conduct means conduct likely to deceive, defraud or harm the public.

5. Applicant's pending felony DUI (third offense) charge and pending guilty plea agreement show insufficient rehabilitation to warrant the public trust at this time and is a basis to place Applicant's registration in a probationary status pursuant to K.S.A. 65-1627(a)(2).

6. Furthermore, Applicant's history of offenses including destruction of property, disorderly conduct, and DUIs are unprofessional conduct likely to harm the public and a basis to place Applicant's registration in a probationary status pursuant to K.S.A. 65-1627(a)(3). Applicant's ongoing court status suggests that additional monitoring and oversight is necessary in the pharmacy environment to ensure the protection of the public.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application for issuance of pharmacy technician registration is hereby GRANTED subject to a 2-year probationary status. The terms of Applicant's probation are as follows:

- Applicant must continue compliance with the terms of any court plea agreement or other requirements;
- Applicant must notify the Board of any change in their court status within 10 days of the change;
- Applicant must notify the Board of any arrest or criminal charge within 10 days of the date of the arrest or charge;

- Applicant must notify the Board of any change in employment within 10 days of the change;
- Applicant must respond to the Board's regular check-in requests;
- Applicant must inform employers of the probationary status of their pharmacy technician registration;
- Applicant must obtain the signature of their pharmacist-in-charge (PIC) documenting knowledge of her probationary status to the Board; and
- Applicant must comply with all rules and regulations of the Pharmacy Practice Act.

NOTICES

Applicant is hereby notified as follows:


1. 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.
2. If a hearing is not requested as described above, the 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 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.

5/23/2024

Date




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

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 24th day of May, 2024, deposit in business mail a copy of the foregoing Summary Order, which is then placed in the United States Mail, postage prepaid, properly addressed to the following:

Nicole Wakes
6327 Cottonwood Dr
Shawnee KS 66216



Kansas Board of Pharmacy Staff