

**BEFORE THE KANSAS BOARD OF VETERINARY EXAMINERS
714 Plum Street
Wamego, Kansas 66547**

In the Matter of)	
)	
James L. Weemhoff,)	Case No. 18021
Applicant for)	
Licensure as a)	
Veterinarian)	
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FINAL ORDER DENYING APPLICATION

Now on this 22nd day of August, the above-captioned matter comes before the Kansas Board of Veterinary Examiners (Board) for final action on Applicant's application for licensure as a veterinarian in Kansas. James L. Weemhoff (Applicant), appears naught but by and through his legal counsel, Mark W. Stafford.

After reviewing the administrative records and providing the parties with the opportunity to present evidence and arguments in support of their respective positions at a hearing formally noticed pursuant to K.S.A. 77-518, the Board makes the following findings of fact, conclusions of law, and order:

Findings of Facts

1. That on or about May 22, 2018, Applicant submitted to the Board an application to practice veterinary medicine in the State of Kansas.
2. On the application, Applicant disclosed 2 felony convictions as follows:
 - a. On or about November 8, 2016, Applicant pled no contest to Indecent Solicitation of a Child, older than 14 years of age but less than 16 years of age, a Level 6 person felony, in Johnson County, Kansas District Court Case No. 15-CR-2664.
 - b. Applicant also pled no contest to Contributing to a Child's Misconduct, a Level 7 person felony, in Johnson County, Kansas District Court Case No. 15-CR-2664.
 - c. Applicant provided an explanation of his felony convictions with his application. In his explanation, Applicant stated, "I already terminated communications with this individual by mid-January, 2015 and was still unaware of the individual's true age until I was contacted by law enforcement, which occurred in late April, 2015."
3. The Board finds that a "no contest" plea is "[a] criminal defendant's plea that, while not admitting guilt, the defendant will not dispute the charge." Black's Law Dictionary (10th ed. 2014).

4. The Board finds Applicant was found guilty and sentenced on his no contest pleas for the 2 felonies in Johnson County, Kansas District Court Case No. 15-CR-2664, and that he remains under the terms of conditions of this probation for 24 months, commencing January 6, 2017.
5. The Applicant does not contest the 2 felony convictions in Johnson County, Kansas District Court Case No. 15-CR-2664
6. That on or about June 21, 2018, the Board issued a Summary Proceeding Order denying Applicant's application for licensure based upon the felony convictions (K.S.A. 47-830(e)), for the employment of fraud, misrepresentation or deception in obtaining a license (K.S.A. 47-830(a)), and for having criminal history that reflects negatively on his moral character (K.S.A. 47-824(a)(4)).
7. That on or about July 3, 2018, the Board received a timely written request for a formal hearing from Applicant.
8. That on August 7, 2018, the Board issued a Notice of Hearing to the parties. The hearing was scheduled for August 22, 2018 at 12:30 p.m. at the Board office located at 714 Plum Street, Wamego, Kansas 66547.
9. That on August 13, 2018, Applicant's request to withdraw his application for licensure as a veterinarian in Kansas was received by the Board.
10. The hearing on Applicant's request to withdraw his application and on the formal hearing on the denial of the Summary Proceeding Order was conducted on August 22, 2018. Applicant was absent because of a scheduling conflict but was represented by the appearance of his legal counsel, Mark Stafford. Mr. Stafford was given the opportunity to proffer the testimony that would have been provided by Applicant had he been present.
11. The Board, with Applicant's approval, took administrative notice of the Agency file.

Conclusions of Law


12. The Board has jurisdiction to determine licensure of veterinarians in Kansas. K.S.A. 47-821. Once the Applicant submitted his application to the Board, the Board retains jurisdiction to determine licensure even if the Applicant attempts to withdraw his application. See *Patel v. Kansas State Bd. of Healing Arts*, 22 Kan. App. 2d 712, 715 (1996).
13. The Board may refuse to issue a license to practice veterinary medicine if the veterinarian or applicant has a conviction of a felony or entering into a plea agreement or a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a felony. K.S.A. 47-830(e).
14. Here, Applicant has 2 felony convictions in his criminal history to which he does not contest are part of his criminal history.

15. Based upon the above findings and conclusions, the Board determines that the application for licensure as a veterinarian filed by the Applicant should be denied due to Applicant having been convicted of 2 felonies.

Order

16. Whereupon, having considered the testimony and evidence presented and the above findings of fact and conclusions of law, the Board decides to exercise its continuing jurisdiction over the applicant and denies Applicant's request to withdraw his application.
17. Further, it is the decision and order of the Board that the application for licensure as a veterinarian filed by Applicant be and is hereby denied. The Board affirms the finding in the Summary Proceeding Order that Applicant has 2 felony convictions pursuant to K.S.A. 47-830(e)

IT IS SO ORDERED.



**Sheila Dodson, D.V.M., President
Kansas Board of Veterinary Examiners**

Appeal Rights and Other Administrative Relief

This is a Final Order. It is effective upon the date indicated in the below Certificate of Service unless a stay is granted pursuant to K.S.A. 77-528. Within 15 days after service of the Final Order, any party may file a petition for reconsideration with the Kansas Board of Veterinary Examiners pursuant to K.S.A. 77-529. Such petition must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking judicial review. Judicial review may be had by filing a petition for judicial review with the appropriate district court as provided in the Kansas Act for Judicial Review, K.S.A. 77-601 *et seq.* The agency officer who may receive service of a petition for judicial review on behalf of the agency is: Jay Hedrick, D.V.M., Executive Director, Kansas Board of Veterinary Examiners, 714 Plum Street, Wamego, Kansas 66547.

Certificate of Service

I hereby certify that on this 10th day of September, 2018 a true and correct copy of the above Final Order Denying Application was deposited in the U.S. mail, first class postage prepaid, addressed to:

Mark Stafford
Forbes Law Group, LLC
6900 College Blvd, Ste. 840
Overland Park, Kansas 66211
Counsel for the Applicant

Jane Weiler, Assistant Attorney General
Office of the Attorney General Derek Schmidt

120 S.W. 10th Street, 2nd Floor
Topeka, Kansas 66612
Litigation Counsel for the KBVE

The original was filed with the Kansas Board of Veterinary Examiners.

A courtesy copy was emailed to:

Athena Andaya, Deputy Attorney General
Office of the Attorney General Derek Schmidt
120 S.W. 10th Street, 2nd Floor
Topeka, Kansas 66612
Legal Counsel for the KBVE



For the Kansas Board of Veterinary Examiners