

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

IN THE MATTERS OF
AMADIEGWU O. ONUJIOGU
Pharmacist License No. 18128
LICENSE SUSPENDED 8/06/09¹

DOCKET NOS. PHA-2009-0116

CODMAN SQUARE PHARMACY
Dorchester, MA 02124
Pharmacy Registration No. 2692
REGISTRATION SUSPENDED 8/06/09

PHA-2009-0115

FINAL DECISION AND ORDER BY DEFAULT

On May 12, 2010, the Board of Registration in Pharmacy (Board) issued an Order to Show Cause (Show Cause Order) ordering Amadiogwu O. Onujiogu (Respondent) to appear and show cause why the Board should not suspend, revoke or otherwise take action against (1) his registration to practice as a pharmacist in the Commonwealth of Massachusetts (No. 18128); or (2) the registration of Codman Square Pharmacy (No. 2692) previously operating in Dorchester, Massachusetts (Pharmacy). In addition to stating the allegations against Respondent, the Show Cause Order notified Respondent that an Answer to the Show Cause Order ("Answer") was to be submitted within 21 days of receipt of the Show Cause Order in accordance with 801 CMR 1.01(6)(d)(2); of the right to request a hearing on the allegations pursuant to M.G.L. c. 112, s. 61; and that any hearing request (Request for Hearing) was to be submitted within 21 days of receipt of the Show Cause Order and that failure to do so would constitute a waiver of the right to a hearing. Respondent was further notified that failure to submit an Answer within 21 days of receipt of the Show Cause Order "shall result in the entry of default in the captioned matter" and, if defaulted, "the Board may enter a Final Decision and Order that assumes the truth of the allegations in the Show Cause Order and may revoke, suspend, or take other disciplinary action against [Respondent's] license...including any right to renew" Respondent's registration." A copy of the Show Cause Order is attached to this Final Decision and Order by Default and is incorporated herein by reference.

¹ On or about August 6, 2009, the Board issued *Temporary Orders of Summary Suspension* against Respondent's registration as a pharmacist and the Pharmacy registration based upon allegations relating to observations of Pharmacy conditions that represented an imminent danger to the public health and safety. On August 18, 2009, the Board issued a *Final Order on Summary Suspension* continuing the suspension of Respondent's pharmacist registration and the Pharmacy registration. Respondent's registration remains suspended as of the date of this Final Decision and Order by Default.

On June 16, 2010, Prosecuting Counsel sent notice to Respondent that he was required to file an Answer and a Request for Hearing by June 28, 2010. 2007. The notice again advised Respondent that his failure to submit a written answer and Request for a Hearing shall result in the entry of a default in these matters and shall constitute a waiver of his right to a hearing on the allegations stated in the Show Cause Order and on any Board disciplinary action. The notice informed Respondent that if defaulted, the Board will enter a Final Decision and Order that assumes the truth of the allegations stated in the Show Cause Order and impose discipline on Respondent's pharmacist registration and the registration of the Pharmacy, including discipline on any right to renew.

As of the date of this Final Decision and Order by Default, Respondent has failed to file either an Answer or a Request for Hearing.

The Board has afforded Respondent an opportunity for a full and fair hearing on the allegations in the Show Cause Order as required by M.G.L. c. 30A, § 10, and sufficient notice of the issues involved to afford Respondent reasonable opportunity to prepare and present evidence and argument as required by M.G.L. c. 30A, § 11, subsection (1). The Board has also notified Respondent of the obligation under 801 CMR 1.01(6)(d) to file an Answer to the Show Cause Order within 21 days of receipt and of the consequences of failing to file an Answer or otherwise respond.

As authorized by M.G.L. c. 30A, §§ 10, subsection (2), the Board may make informal disposition of any adjudicatory proceeding by default. Upon default, the allegations of the complaint against Respondent are accepted as true. *Danca Corp. v. Raytheon Co.*, 28 Mass. App. Ct. 942, 943 (1990).

Based on the foregoing, the Board enters a default in the above-captioned matter and, consequently, the allegations in the Order to Show Cause are deemed to be true and Respondent has waived the right to be heard. In accordance with the Board's authority and statutory mandate, the Board orders as follows:

ORDER

On July 13, 2010, the Board voted to issue this Final Decision and Order by Default and REVOKE: (1) Respondent's suspended Pharmacist registration (No. 18128); and the (2) Pharmacy suspended registration (No. 2692), effective as of the date issued (see below), by the following vote: In favor: Stanley B. Walczyk, R.Ph.; Joanne M. Trifone, R.Ph.; Karen M. Ryle, R.Ph., George A. Cayer, R.Ph.; Donald D. Accetta, M.D., Michael Tocco, R.Ph., Kathy J. Fabiszewski, Ph.D., N.P.; Sophia Pasedis, R.Ph., Pharm.D.; and James T. DeVita, R.Ph. Opposed: None. Absent: Steven Budish, Public Member.

The Board will not review any petition for pharmacist licensure in the Commonwealth filed sooner than five (5) years from the Effective Date of this

Final Decision and Order. While Respondent's pharmacist registration is revoked, Respondent may not: (1) be employed as a pharmacist or pharmacy technician to provide any services related to the practice of pharmacy or be employed to provide any services in any capacity in any pharmacy setting in the Commonwealth; or (2) have any ownership, management or other interest or involvement in any pharmacy related business in any setting. If at any time in the future Respondent seeks re-licensure by the Board, he will be required to meet all current requirements for licensure at the time of any such application, including, but not limited to, re-application, re-examination, re-training and moral character qualifications (including consideration of any convictions or unlawful activity) and any other reinstatement terms and conditions the Board may deem to be necessary and appropriate.

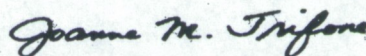
EFFECTIVE DATE

The Order of the Board shall be effective as of July 13, 2010.

RIGHT OF APPEAL

Respondent is hereby notified of his right to appeal this Final Decision and Order to the Supreme Judicial Court pursuant to G.L. c. 112, § 64 and G.L. c. 30A, §§ 14 and 15 within thirty days of receipt of notice of this Final Decision and Order by Default.

Board of Registration in Pharmacy



Joanne M. Trifone, R.Ph.

President

Date Issued: July 13, 2010

Dec. Nos. 2347 (PHA-2009-0116) and 2348 (PHA-2009-0115)

Final Decision and Order by Default sent to:

BY FIRST CLASS AND CERTIFIED MAIL RETURN RECEIPT REQUESTED

NO. 7009 1680 1520 0248 to Attorney of Record

Richard S. Weiss, Esq.

15 Court Square

Boston, MA 02108

BY INTEROFFICE MAIL

Anne McLaughlin, Prosecuting Counsel

Office of Prosecutions, DPH Division of Health Professions Licensure

239 Causeway Street

Boston, MA 02114

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Amadiogwu O. Onujiogu, R. Ph.)
Pharmacist Registration No. 18128)
Registration Expires 12/31/10)
_____)

PHA-2009-0116

In the Matter of)
Codman Square Pharmacy)
Dorchester, Massachusetts 02124)
Pharmacy Registration No. 2692)
Registration Expired 12/31/09)
_____)

PHA-2009-0115

ORDER TO SHOW CAUSE

Amadiogwu O. Onujiogu, ("you or Respondent") you are hereby ordered to appear and show cause why the Massachusetts Board of Registration in Pharmacy ("Board") should not suspend, revoke or otherwise take action against your registration to practice as a Registered Pharmacist in the Commonwealth of Massachusetts, Registration No. 18128, or your registration to operate Codman Square Pharmacy, Registration No. 2692, or your right to renew such registrations, pursuant to Massachusetts General Laws (G. L.) Chapter 112, §§42A and 61 and Board regulations 247 CMR 2.00 et seq., based upon the following facts and allegations.

1. On or about December 29, 1980, the Board issued to you a license to practice as a Registered Pharmacist, License No. 18128. Your license is current and due for renewal on December 31, 2010.
2. At all times relevant to the allegations in this Order to Show Cause, you were practicing as a Registered Pharmacist at Codman Square Pharmacy and were the owner and Manager of Record of the pharmacy.
3. At all times relevant to the allegations in this Order to Show Cause, Codman Square Pharmacy was located at 624 Washington Street, Dorchester, Massachusetts and registered as a pharmacy by the Board.

4. On or about July 31, 2009, a criminal complaint was filed against you in the matter of *United States of America v. Amadiogwu Onujiogu* in the United States District Court, District of Massachusetts. The criminal complaint was based on allegations that you had engaged in a scheme to defraud Medicaid as detailed in the complaint affidavit of David Kelly, Special Agent for the U.S. Department of Health and Human Services, Office of Inspector General ("HHS-OIG").
5. On or about July 31, 2009, based on the criminal complaint and affidavit of Agent Kelly, a warrant for your arrest was issued alleging that you had violated Title 18, United States Code, §286, by entering into an agreement with others to defraud the United States Government by billing Medicaid for prescriptions that were not actually filled or dispensed. This scheme also included your purchase of paper prescriptions and medications directly from patients in exchange for cash.
6. On or about August 1, 2009, after receiving notification from the HHS-OIG that a criminal complaint had been filed and you had been arrested for the alleged violation of Title 18, U.S.C. § 286, Board investigators made a site visit to Codman Square Pharmacy. The facility was issued a Notice Not to Operate by the Board and was closed to the public.
7. On August 3, 2009, Board investigators inspected Codman Square Pharmacy and observed multiple violations of state and federal statutes and regulations pertaining to the practice of pharmacy, including, but not limited to the following:
 - a. Investigators observed numerous examples of HIV/AIDS medications as well as anti-psychotic and anti-depression medications throughout the pharmacy inventory (pharmacy shelves, controlled substances cabinets, and refrigerators) in manufacturer's bottles that at one time had pharmacy labels attached. The glue residue from the prescription labels remaining on the manufacturer's bottles indicated that the medications were obtained from an illicit source. These medications were in the pharmacy inventory for sale to the public.
 - b. Investigators observed numerous examples of medications that contained prescription labels or identification from other pharmacies such as Walgreens Pharmacy, CVS Pharmacy and Strand Pharmacy. The retail pharmacy labels attached to these medications indicated that they were obtained from an illicit source. These medications were in the pharmacy inventory for sale to the public.
 - c. Investigators observed numerous examples of manufacturer's bottles throughout the pharmacy inventory with broken safety seals containing more tablets or capsules than the quantity on the label. The original manufacturer's bottles had been tampered with and additional tablets or capsules had been added. These medications were in the pharmacy inventory for sale to the public.

- d. Investigators observed numerous examples of prescription vials of medication with improper labeling stored throughout the pharmacy inventory. These medications were obtained from an illicit source as evidenced by the improper labeling. These medications were in the pharmacy inventory for sale to the public.
 - e. Investigators observed numerous examples of expired medications throughout the pharmacy inventory stored on pharmacy shelves, refrigerators, and controlled substance cabinets. The expired medications often had broken seals and were overfilled with extra tablets or capsules. These medications had been tampered with and were in the pharmacy inventory for sale to the public.
- 8. While you were the Owner and Manager of Record of Codman Square Pharmacy and practicing as a Pharmacist, you obtained drugs from illicit sources, primarily from patients. The integrity of these drugs was suspect and further compromised by your failure to ensure their proper handling and storage at your pharmacy. You placed these dangerous and unsafe drugs in your pharmacy inventory for sale to the public.
 - 9. On August 3, 2009, Codman Square Pharmacy was issued a Cease and Desist Notice by the Board to immediately close the pharmacy and cease providing pharmacy services, except for the orderly transfer of patient prescription orders for filling at other pharmacies. All articles of drugs on the pharmacy premises were subject to an Embargo order # 1632, allowing for no further disposition without the approval of the Department of Public Health.
 - 10. On or about August 6, 2009, the Board issued Temporary Orders of Summary Suspension, ordering that your personal Pharmacist Registration and the Codman Square Pharmacy Registration be temporarily suspended, effective immediately. The Board determined that your conduct, as described in the criminal complaint and affidavit referenced in ¶ 4, along with the dangerous conditions observed by Board investigators during the Codman Square Pharmacy inspection represented an imminent danger to the public health and safety.
 - 11. On or about August 18, 2009, based on your waiver of your right to a hearing on the necessity of the summary suspension, the Board issued a Final Order on Summary Suspension, ordering that your personal Pharmacist Registration and the Codman Square Pharmacy Registration remain suspended, pending a final disposition of the matter by the Board.
 - 12. On or about August 20, 2009, you were indicated in the United States District Court, District of Massachusetts, Criminal Case No. 09- CR10246- EFH for violation of 18 U.S.C. § 286, Conspiracy to Defraud the Government with Respect to Claims.

13. On or about August 24, 2009, you were arraigned in the U.S. District Court, District of Massachusetts on the felony charges in ¶ 11 and the jury trial on these charges is scheduled for September 13, 2010.
14. Your conduct as alleged above warrants disciplinary action by the Board against your license to practice as a Registered Pharmacist and your license to own and operate a pharmacy pursuant to G. L. c. 112, § 61 for deceit, malpractice, and gross misconduct in the practice of the profession and offenses against the laws of the Commonwealth relating thereto.
15. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a Registered Pharmacist in the Commonwealth pursuant to Board regulation 247 CMR 9.00 the Code of Professional Conduct for Registered Pharmacists, Pharmacies and Pharmacy Departments, specifically:
 - (a) Your conduct as alleged violates 247 CMR 9.01(1) for failing to conduct professional activities in conformity with federal, state and municipal laws, ordinances and regulations;
 - (b) Your conduct as alleged violates 247 CMR 9.01(2) for dispensing drugs, devices, or other substances in a manner which is intended, either directly or indirectly, to circumvent the law;
 - (c) Your conduct as alleged violates 247 CMR 9.01(3) for failing to observe the standards of the current United States Pharmacopoeia;
 - (d) Your conduct as alleged violated 247 CMR 9.01(5) for failing to provide for the proper preservation and security of all drugs in the pharmacy or pharmacy department, including the proper refrigeration and storage of said drugs;
 - (e) Your conduct as alleged violated 247 CMR 9.01(6) for engaging in fraudulent or deceptive acts; and
 - (f) Your conduct as alleged violates 247 CMR 9.01(9) for aiding or abetting the unlawful practice of pharmacy.
16. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a Registered Pharmacist in the Commonwealth pursuant to Board regulation 247 CMR 10.03, Grounds for Discipline against a Registered Pharmacist, specifically:
 - (a) Your conduct as alleged warrants disciplinary action pursuant to 247 CMR 10.03(1)(a) for violating the duties and standards set out in Board regulations 247 CMR 2.00 et seq., or any rule or written policy of the Board;

- (b) Your conduct as alleged warrants disciplinary action pursuant to 247 CMR 10.03(1)(e) for engaging in misconduct in the practice of the profession;
 - (c) Your conduct as alleged warrants disciplinary action pursuant to 247 CMR 10.03(1)(k) for engaging in conduct that has the capacity or potential to place the public health, safety or welfare at risk;
 - (d) Your conduct as alleged warrants disciplinary action pursuant to 247 CMR 10.03(1)(l) for engaging in conduct that has the capacity or potential to deceive or defraud;
 - (e) Your conduct as alleged warrants disciplinary action pursuant to 247 CMR 10.03(1)(r) for engaging in conduct that demonstrates a lack of good moral character;
 - (f) Your conduct as alleged warrants disciplinary action pursuant to 247 CMR 10.03(u) for engaging in conduct which undermines public confidence in the integrity of the profession;
 - (g) Your conduct as alleged warrants disciplinary action pursuant to 247 CMR 10.03(1)(v) for committing an act that violates recognized standards of pharmacy practice; and
 - (h) Your conduct as alleged warrants disciplinary action pursuant to 247 CMR 10.03(1)(w) for failing to comply with recognized ethical standards of the profession, including, but not limited to, the standards of practice of pharmacists set forth in 247 CMR 9.00: Code of Conduct for Registered Pharmacists, Pharmacies and Pharmacy Departments.
17. Your conduct as alleged constitutes unprofessional conduct and conduct which undermines public confidence in the integrity of the pharmacy profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); see also, *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, cert. denied, 498 U.S. 823 (1990); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 713 (1982).

You have a right to an adjudicatory hearing ("hearing") on the allegations contained in the Order to Show Cause before the Board determines whether to suspend, revoke, or impose other discipline against your license. G.L. c. 112, § 61. Your right to a hearing may be claimed by submitting a written request for a hearing *within twenty-one (21) days of receipt of this Order to Show Cause*. You must also submit an Answer to this Order to Show Cause in accordance with 801 CMR 1.01(6)(d) *within twenty-one (21) days of receipt of this Order to Show Cause*. The Board will give you prior written notice of the time and place of the hearing following receipt of a written request for a hearing.

Hearings shall be conducted in accordance with the State Administrative Procedure Act, G.L. c. 30A, §§ 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03, under which you are granted certain rights including, but not limited to, the rights: to a hearing, to secure legal counsel or another representative to represent your interests, to call and examine witnesses, to cross-examine witnesses who testify against you, to testify on your own behalf, to introduce evidence, and to make arguments in support of your position.

The Board will make an audio recording of any hearing conducted in the captioned matter. In the event that you wish to appeal a final decision of the Board, it is incumbent on you to supply a reviewing court with a "proper record" of the proceeding, which may include a written transcript. *New Bedford Gas and Light Co. v. Board of Assessors of Dartmouth*, 368 Mass. 745, 749-750 (1975). Upon request, the Board will make available a copy of the audio recording of the proceeding at your own expense. Pursuant to 801 CMR 1.01 (10) (i)(1), upon motion, you "may be allowed to provide a public stenographer to transcribe the proceedings at [your] own expense upon terms ordered by the Presiding Officer." Those terms may include a requirement that any copy of the transcript produced must be sent immediately upon completion, and on an ongoing basis, directly to the Presiding Officer by the stenographer or transcription service. The transcript will be made available to the Prosecutor representing the Board. Please note that the administrative record of the proceedings including, but not limited to, the written transcript of the hearing is a public record and subject to the provisions of G.L. c. 4, § 7 and G.L. c. 66, § 10.

Your failure to submit an Answer to the Order to Show Cause within twenty-one (21) days of receipt of the Order to Show Cause *shall result in the entry of default* in the captioned matter. Your failure to submit a written request for a hearing within twenty-one (21) days of receipt of this Order to Show Cause *shall constitute a waiver of the right to a hearing* on the allegations herein and on any Board disciplinary action.

Notwithstanding the earlier filing of an Answer and/or request for a hearing, your failure to respond to notices or correspondence, your failure to appear for any scheduled status conference, pre-hearing conference or hearing dates, or your failure to otherwise defend this action shall result in the entry of default.

If you are defaulted, the Board may enter a Final Decision and Order that assumes the truth of the allegations in this Order to Show Cause, and may revoke, suspend, or take other disciplinary action against your personal registration to practice as a Registered Pharmacist in the Commonwealth of Massachusetts and the Registration of Codman Square Pharmacy, including any right to renew said Registrations.

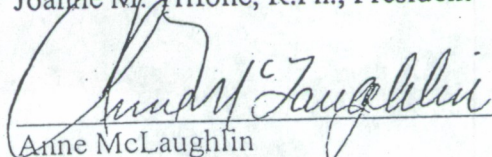
Your Answer to the Order to Show Cause and your written request for a hearing must be filed with Anne McLaughlin, Prosecuting Counsel, at the following address:

Anne McLaughlin
Prosecuting Counsel
MA Department of Public Health
Office of the General Counsel
239 Causeway Street, Suite 200
Boston, MA 02114

You or your representative may examine Board records relative to this case prior to the date of the hearing during regular business hours at the office of the Prosecuting Counsel. If you elect to undertake such an examination, please contact the Prosecuting Counsel in advance at (617) 973-0840 to schedule a time that is mutually convenient.

Board of Registration in Pharmacy,
Joanne M. Trifone, R.Ph., President

By:


Anne McLaughlin
Prosecuting Counsel
Department of Public Health

Dated: May 12, 2010