



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
Division of Health Professions Licensure  
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MARYLOU SUDDERS  
Secretary  
MONICA BHAREL, MD, MPH  
Commissioner

April 8, 2016

VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
RECEIPT REQUESTED NO. 7015 3010 0001 6944 5390  
Angelica Rivera  
[REDACTED]

**RE: In the Matter of Angelica Rivera, PT License No. 14210**  
**Board of Registration in Pharmacy Docket No. PHA-2013-0181**

Dear Ms. Rivera:

Enclosed is the *Final Decision and Order by Default* ("Final Order") issued by the Board of Registration in Pharmacy (Board) in connection with the above-referenced matter. The effective date of the Board's Order is ten (10) days from the date appearing on page 4 of the *Final Order* ("Date Issued"). Your appeal rights are noted on page 4 of the *Final Order*.

Sincerely,

David Sencabaugh, R. Ph.  
Executive Director

Enc.

cc: Sean Casey, Esq.  
Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

\_\_\_\_\_  
In the Matter of )  
ANGELICA RIVERA )  
License No. PT14210 )  
PT License expired 10/06/2015 )  
\_\_\_\_\_ )

Docket No. PHA-2013-0181

FINAL DECISION AND ORDER BY DEFAULT

On February 18, 2016, the Board of Registration in Pharmacy (“Board”) issued and duly served on Angelica Rivera, License No. PT14210 (“Respondent”) an Order to Show Cause (“Show Cause Order”) related to a complaint filed regarding Respondent’s Pharmacy Technician license.<sup>1</sup> In addition to stating the allegations against the Respondent, the Show Cause Order notified Respondent that an Answer to the Show Cause Order (“Answer”) was to be submitted within twenty one (21) days of receipt of the Show Cause Order.<sup>2</sup>

The Show Cause Order further notified the Respondent of the Right to Request a Hearing on the allegations and that any Hearing request (“Request for Hearing”) was also to be submitted within twenty one (21) days of receipt of the Show Cause Order.<sup>3</sup>

Respondent was further notified that failure to submit an Answer within twenty one (21) days “shall result in the entry of default in the above-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

<sup>1</sup> Pursuant to 801 CMR 1.01(6)(a).

<sup>2</sup> In accordance with 801 CMR 1.01(6)(d)(2).

<sup>3</sup> Pursuant to G.L. c. 112, §61

Angelica Rivera  
PT14210  
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Final Decision and Order by Default

action against [Respondent's] license to practice as a Licensed Pharmacy Technician in the Commonwealth of Massachusetts, including any Right to Renew [Respondent's] license.”

A copy of the Show Cause Order and the February 23, 2016 notice is attached to this Final Decision and Order by Default and is incorporated herein by reference.

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 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 G.L. c. 30A, §11(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 twenty one (21) days of its receipt and of the consequences of failing to file an Answer or otherwise respond.

As authorized by G.L. c. 30A, §10(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:

Angelica Rivera  
PT14210  
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Final Decision and Order by Default

On April 5, 2016, in accordance with the Board's authority and statutory mandate, the Board voted to issue this Final Decision and Order by Default and **REVOKE** Respondent's pharmacy technician registration (No.14210), effective ten days from the Date Issued, by the following vote:

In favor:	Ed Taglieri; Michael Godek; Catherine Basile; Andrew Stein; Phillippe Bouvier; Susan Cornacchio; Timothy Fensky; Garret Cavanaugh; William Cox
Opposed:	None
Abstained:	None
Recused:	None
Absent:	Richard Tinsley; Karen Conley; Patrick Gannon; Ali Raja

The Board will not review any petition for reinstatement of Respondent's pharmacy technician license prior to May 1, 2021.

While Respondent's pharmacy technician registration is revoked, Respondent may not: (1) be employed as 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.

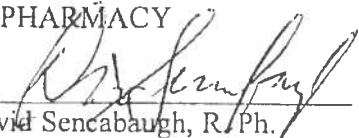
EFFECTIVE DATE OF ORDER

The Final Decision and Order by Default shall be effective 10 days from the Date Issued.

RIGHT TO APPEAL

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

BOARD OF REGISTRATION  
IN PHARMACY

  
\_\_\_\_\_  
David Sencabaugh, R.Ph.  
Executive Director

Date Issued: 4/8/16

Notice to:

BY FIRST CLASS MAIL AND CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Angelica Rivera  


BY HAND

Sean Casey, Esq.  
Office of Prosecutions  
Department of Public Health  
Division of Health Professions Licensure  
239 Causeway Street  
Boston, MA 02114

Angelica Rivera  
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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY  
DOCKET NO. PHA-2013-0181

\_\_\_\_\_)  
In the Matter of )  
ANGELICA RIVERA )  
Registration No. PT14210 )  
License Exp. Date: 10/6/15 )  
\_\_\_\_\_)

ORDER TO SHOW CAUSE

Angelica Rivera, 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 Pharmacy Technician registration, Registration No. 14210, or your *right to renew* such registration, pursuant to Massachusetts General Laws 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 July 15, 2011, the Board issued you Pharmacy Technician (PT) Registration No. PT14210. It expired on October 6, 2015.
2. On or about October 27, 2012, you were hired by CVS Pharmacy as a full time PT. From November 29, 2013 through December 1, 2013, you were employed as a PT at CVS Pharmacy # 843 located in Chicopee, Massachusetts (CVS).
3. On November 29, 2013, at approximately 5:42 PM, while working at CVS, you accepted a prescription for one hundred twenty (120) 30 mg Oxycodone tablets (Oxycodone Prescription) and identification from a male party.<sup>1</sup>
4. The male provided Massachusetts identification. While the identification matched the patient's name, address and DOB, the photographic image on the identification did not match the likeness of the male that dropped the prescription off. You noted the identification number on the prescription and then returned same to him at 5:51PM. Thereafter, the male left the CVS.
5. The Oxycodone Prescription was purportedly written by \_\_\_\_\_ of Cooley-Dickinson Hospital on November 26, 2013.
6. On November 29, 2013, between 5:54PM and 5:58PM, a CVS pharmacist filled and verified the Oxycodone Prescription and placed the prescription bottle containing one

<sup>1</sup> Oxycodone is an opioid pain medication and is a Schedule II narcotic, per the Controlled Substance Act (CSA). Schedule II controlled substances have a high potential for abuse, per the Drug Enforcement Administration (DEA).

hundred twenty (120) 30 mg Oxycodone tablets (Oxycodone tablets) along with its corresponding receipt/label into a yellow basket, on top of the large narcotics safe (referred to as the Hydro. safe) next to the Pharmacist's verification station.

7. On November 29, 2013, at 6:27PM, you removed the Oxycodone tablets and receipt/label from the yellow basket along with a black basket (containing other prescriptions) from on top of the large narcotics safe and walked in the direction of the waiting bin area with the items you removed. Most, if not all, of the waiting bin area was out of camera range and you were aware of same.
8. On November 29, 2013, at 8:30PM, neither the Oxycodone tablets nor the receipt/label could be located in the waiting bin area.<sup>2</sup>
9. You were contacted by CVS Pharmacy staff later that night as they were attempting to locate the Oxycodone tablets and receipt/label. On November 29, 2013, you made various admissions to the CVS Pharmacy Pharmacist in Charge (PIC), by phone and/or text, with respect to the Oxycodone Prescription.
  - a. At first you said that you did not recall the Oxycodone Prescription or the male party who dropped off the Oxycodone Prescription.
  - b. Later, you said that you did remember the Oxycodone Prescription and that the person that dropped it off was male and that it was for his brother.
  - c. Later, you suggested that someone else might have picked up the Oxycodone Prescription. However, when you were informed the Oxycodone Prescription was never rung it up, you responded, "Oh, I'll go in tomorrow morning, if nothing changes."
  - d. Later, when you were again asked about the Oxycodone Prescription, you responded, "smh [shake my head] you sure it wasn't picked up?" and "the guy that dropped it off was dropping it off for his brother . . . maybe somebody else picked up . . . call him."
  - e. Later still, you admitted "price modifying" a prescription transaction, you forgot to put the label in the designated box and instead put the label in your pocket. You were unable to recall any more specifics at that time.
  - f. Later, you said that the "price modify" transaction took place at the front register.
10. Some time prior to your admission of 9(e), the top portion of the Oxycodone Prescription receipt/label was discovered in your laboratory coat pocket by fellow CVS Pharmacy staff.<sup>3</sup>

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<sup>2</sup> On November 29, 2013, at approximately 8:30PM the CVS Pharmacist on duty was performing her weekly C2 inventory and noticed that the count for the Oxycodone 30 mg tablets was off by 120 tablets. The CVS Pharmacist realized that she forgot to place the sticker from the Oxycodone Prescription she filled earlier into the log book and that this error accounted for the 120 tablet shortfall. The Pharmacist ran a dispensing report, retrieved the Oxycodone Prescription information and noticed that the Oxycodone tablets were never picked up. When the Pharmacist went to the waiting bin area (to retrieve the sticker to place in the log book), she discovered the Oxycodone tablets and receipt/label were not there.

<sup>3</sup> CVS Pharmacy staff generally keep this portion of a receipt/label if, during the course of a prescription sale, they have to "price modify" the cost. For instance, when MA Health customers are unable to pay their co-pay, CVS staff "price modify" the cost to zero.

11. On November 30, 2013, you made additional admissions, via text, to the CVS Pharmacy PIC.
  - a. You asked why a co-worker was asked to report to work that day (November 30, 2013), as opposed to you and whether there was anything you should be worried about. You then asked whether anything was discovered on the cameras.
  - b. You stated that you completed the sale of Oxycodone Prescription at the "front register."
  
12. On December 1, 2013, you made additional admissions to the CVS Pharmacy Loss Prevention staff.
  - a. You admitted that you rang out the Oxycodone Prescription for a male shortly before you left for the night.
  - b. You described the male party as Spanish or Hispanic.
  - c. You stated that you had to "price modify" the cost to zero (0) co-pay.
  - d. You stated that you tore off the top of the prescription and put it in your lab coat and forgot to file it.
  - e. You admitted that there was no footage of the Oxycodone Prescription being picked up or sold or you being at any counter with a customer after you were shown CVS Pharmacy video from the time the prescription was filled and verified to the time you left.
  - f. You admitted that there was no Point of Sale (POS) transaction anywhere in the CVS Pharmacy database relative to the Oxycodone Prescription.
  
13. CVS was unable to locate video surveillance of you completing a pick up or sales transaction of the above described Oxycodone tablets on November 29, 2013 because you never completed a pick up or sales transaction relative to same.
  
14. CVS was unable to locate documentation of you completing a pick up or sales transaction of the above described Oxycodone tablets on November 29, 2013 because you never completed a pick up or sales transaction relative to same.
  
15. Peter M. Morse, MD did not write the Oxycodone Prescription, dated November 26, 2013.
  - a. [REDACTED] was provided a copy of the prescription and said he did not write it.
  - b. [REDACTED] said he would not write such a prescription as he was working in the emergency room around that time and did not write those types of prescriptions.
  - c. [REDACTED] said he did not work on November 26, 2013.
  - d. The Oxycodone Prescription was apparently written on copy paper.
  
16. On or about December 3, 2013, you failed to report to CVS for your scheduled shift as a PT.
  
17. On December 3, 2013, you were terminated from your position as a CVS PT.
  
18. You were provided due notice that you were scheduled to be arraigned on May 9, 2013 in Chicopee District Court, Docket No. 1420CR000530 A-C on Count 1. Uttering a False Prescription (a violation of MGL c. 94C. § 33(b)); Count 2 Larceny of a Drug (a



violation of MGL c. 94C, § 37) and Count 3 one count of Conspiracy (a violation of MGL c. 274, § 7).<sup>4</sup>

19. Despite such notice, you failed to appear and a warrant issued for your arrest.
20. On January 25, 2016 you admitted under oath, to sufficient facts and the Court accepted your plea, whereby Count 2 was Continued Without a Finding (“CWOFF”) for six (6) months.
21. On November 29, 2013, you diverted said Oxycodone tablets
22. You intended to falsify CVS Pharmacy records by ringing up a sale that never took place and then “price modify” the transaction to zero on or after November 29, 2013.

#### GROUND FOR DISCIPLINE

- A. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as a pharmacy technician pursuant to G. L. c. 112, §§ 24D and 42A.
- B. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as pursuant to G.L. c. 112, § 61, for deceit, malpractice, gross misconduct in the practice of the profession, or any offense against the laws of the Commonwealth relating thereto.
- C. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as pursuant to G.L. c. 94C, § 34, for conduct in violation of the Massachusetts Controlled Substances Act.
- D. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (e) for engaging in misconduct in the practice of the profession.
- E. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (f) for engaging in conduct beyond the authorized scope of a pharmacy technician.
- F. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (h) for engaging in abuse or the illegal use of prescription drugs or controlled substances.
- G. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (k) for engaging in conduct that has the capacity or potential to place the public health, safety or welfare at risk.
- H. Your conduct as alleged warrants disciplinary action by the Board against your license to

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<sup>4</sup> The Assistant District Attorney in the case later filed a *Nolle Prosequi* relative to Counts 1 and 3. The Larceny of a Drug charge (Count 2) was amended to Larceny Less (than \$250), *in viis* Oxycodone, a violation of MGL c. 266, § 30 (a misdemeanor).

practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (l) for engaging in conduct that has the capacity or potential deceive or defraud.

- I. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (n) for admitting to sufficient facts to warrant a finding of guilty of any crime.
- J. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (q) for failing without cause to provide requested information.
- K. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (r) for engaging in conduct that demonstrates a lack of good moral character.
- L. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (u) for engaging in conduct which undermines public confidence in the integrity of the profession.
- M. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (v) for committing act(s) that violate recognized standards of pharmacy practice.
- N. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (w) for failing to comply with the recognized ethical standards of the profession, including, but not limited to, the standards of practice of pharmacists, pharmacy interns and pharmacies and pharmacy departments set forth in 247 CMR 9.01: *Code of Conduct for Registered Pharmacists, Pharmacies and Pharmacy Departments*.
- O. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (x) for violation of G.L. c. 94C or any rules or regulations promulgated thereunder.
- P. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (aa) for failing to report to the Board, in writing, within 30 days, any pending criminal charge or conviction, as defined in 247 CMR 10.02, of a registrant or licensee, in Massachusetts or any other jurisdiction.<sup>5</sup>
- L. Your conduct as alleged also constitutes unprofessional conduct and conduct which undermines public confidence in the integrity of the profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); see also *Kvitka v. Board of*

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<sup>5</sup> Conviction shall include any guilty verdict or finding of guilt and any admission to or finding of sufficient facts to warrant a finding of guilt, regardless of adjudication, a continuance without a finding, and any plea of guilty or *nolo contendere*, of or to a crime in any jurisdiction, which has been accepted by the court, whether or not a sentence has been imposed. A conviction of any person licensed or registered by the Board shall be conclusive evidence of the commission of that crime in any disciplinary proceeding against such person based upon the conviction. 247 CMR 10.02 Definitions.

*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 registration. 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 promptly 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 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 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, failure to appear for any scheduled status conference, pre-hearing conference or hearing dates, or 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 registration to practice as a pharmacy technician in the Commonwealth of Massachusetts, including any right to renew your registration.

Your Answer to the Order to Show Cause and your written request for a hearing must be filed with Sean J. Casey at the following address:

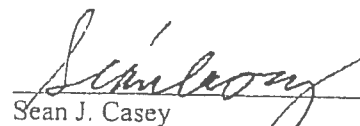
Sean J. Casey  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel  
239 Causeway Street, Suite 500, 5<sup>th</sup> Floor  
Boston, MA 02114

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, then please contact Prosecuting Counsel in advance at (617) 973-0880 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION  
IN PHARMACY,  
Edmund J. Taglieri, Jr., RPh MSM, NHA. President

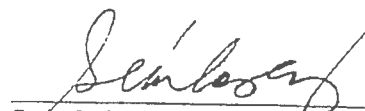
By: 2/18/16

By:

  
\_\_\_\_\_  
Sean J. Casey  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel  
239 Causeway Street, Suite 500, 5<sup>th</sup> Floor  
Boston, MA 02114  
(617) 973-0880 (T)

#### CERTIFICATE OF SERVICE

I, Sean J. Casey, hereby certify that a copy of the foregoing Cover Letter, Order to Show Cause and Certificate of Service was served upon the Respondent, Angelica Rivera, at 18 Spring Street, Chicopee, MA 01013 by Certified Mail No. 7015 1520 0002 8254 5050 and by first class mail on this eighteenth day of February, 2016.

  
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Sean J. Casey  
Prosecuting Counsel