

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
BARRY CADDEN)
PH21239)
Exp. 12-31-12)

PHA-2012-0213

FINAL DECISION AND ORDER

Procedural History

On November 28, 2012, the Board issued an Order to Show Cause (“OTSC”) to Barry Cadden, commencing this proceeding. The OTSC alleged misconduct and grounds for discipline based on inspector observations and information gathered as part of the ongoing investigation at New England Compounding Center (“NECC”). Respondent filed an answer to the OTSC on or about December 19, 2019.

On August 7, 2013, Prosecuting Counsel filed a motion to stay the proceedings, which was eventually allowed. On January 11, 2019, Prosecuting Counsel filed a motion to lift the stay and for leave to file a First Amended Order to Show Cause (“FAOTSC”). On January 24, 2019, the Administrative Magistrate allowed the motion and accepted the FAOTSC. Cadden filed an Answer to the FAOSC on March 15, 2019.

On May 3, 2019, Prosecuting Counsel filed a Motion for Summary Decision. Respondent filed a Revised Opposition to Prosecuting Counsel’s Motion for Summary Decision on July 18, 2019. The Chief Administrative Magistrate Barshak (“CAM Barshak”) submitted a Recommended Ruling on Petitioner’s Motion for Partial Summary Decision on or about August 6, 2019. On December 5, 2019, the Board voted to adopt CAM Barshak’s findings and recommended ruling and granted the Motion for Partial Summary Decision with respect to the violations and grounds for discipline as identified therein.

Respondent did not request a hearing relative to sanctions.

DECISION

As described in the Board’s ruling on the Motion for Partial Summary Decision, the undisputed facts in this matter constitute violations of M.G.L. c. 94C §§ 17 & 21, 247 CMR 6.07(1)(d) & (e), and 247 CMR 9.01(3). Respondent’s conduct

warrants discipline pursuant to M.G.L. c. 112, §§ 27, 28, 40, 42A, and 61 and 247 CMR 10.03(1)(b), (e), (k), (l), (n), (r), (u), (v), & (w). In particular, the Board notes that a criminal conviction is grounds for discipline against a pharmacist's license in and of itself. See 247 CMR 10.03(1)(n).

Also as described in the Board's ruling on the Motion for Partial Summary Decision, to the extent the FAOTSC alleged violations and/or grounds for discipline not included CAM Barshak's recommended ruling, the Board dismissed those allegations without prejudice. The Board does NOT deem the allegations of violations and/or grounds for discipline not included CAM Barshak's recommended ruling to be of a *de minimis* nature. However, those allegations are sufficiently similar in nature to those established as a matter of law; as such, findings on those facts are unlikely to result in different or additional action by the Board.

The Board voted to adopt the within Final Decision at its meeting on February 6, 2020, by the following vote:

In favor: Timothy Fensky; Patrick Gannon; Michael Godek; Sebastian Hamilton; Stephanie Hernandez; Carly Jean-Francois; Julie Lanza; Richard Lopez; Andrew Stein; Kim Tanzer
Opposed: None
Abstained: None
Recused: None
Absent: Susan Cornacchio; Leah Giambarresi; Dawn Perry

ORDER

On February 6, 2020, in accordance with the Board's authority and statutory mandate, the Board voted to issue this Final Decision and Order and **REVOKE** Respondent's pharmacist license, PH21239, effective ten days from the Date Issued, by the following vote:

In favor: Timothy Fensky; Patrick Gannon; Michael Godek; Sebastian Hamilton; Stephanie Hernandez; Carly Jean-Francois; Julie Lanza; Richard Lopez; Andrew Stein; Kim Tanzer
Opposed: None
Abstained: None
Recused: None
Absent: Susan Cornacchio; Leah Giambarresi; Dawn Perry

In light of the unique nature and severity of the conduct in this case, as detailed more fully in the Ruling on Partial Summary Decision, the Board does not foresee any circumstance in which it would reinstate Respondent's pharmacist license.

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: _____

Notice to:

**BY FIRST CLASS & CERTIFIED MAIL NO. 7019 0700 0000 1934 5079,
RETURN RECEIPT REQUESTED**

Bruce A. Singal
Michelle R. Pierce
Barret & Singal, PC
One Beacon Street, Suite 1320
Boston, MA 02108

BY HAND

Jodi A. Greenburg, Esq.
Chief Prosecuting Counsel
Massachusetts Department of Public Health
Office of the General Counsel
250 Washington Street
Boston, MA 02108

BY HAND

Jason Barshak, Esq.
Chief Administrative Magistrate
Massachusetts Department of Public Health
Office of the General Counsel
250 Washington Street
Boston, MA 02108