

The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
Division of Health Professions Licensure  
239 Causeway Street, Suite 500, Boston, MA 02114

CHARLES D. BAKER  
Governor

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Lieutenant Governor

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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 5420  
Christian Durex

RE: In the Matter of Christian Durex, PT License No. 17147  
Board of Registration in Pharmacy Docket No. PHA-2014-0159

Dear Mr. Durex:

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 )  
CRISTIAN DUREX )  
License No. PT17147 )  
PT License expired 12/02/2015 )  
\_\_\_\_\_ )

Docket No. PHA-2014-0159

FINAL DECISION AND ORDER BY DEFAULT

On July 9, 2015, the Board of Registration in Pharmacy ("Board") issued and duly served on Cristian Durex, License No. PT17147 ("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

<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

Christian Durex  
PT17147  
PHA-2014-0159  
Final Decision and Order by Default

allegations in the Show Cause Order and may revoke, suspend, or take other disciplinary 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."

On February 23, 2016, the Board sent the Respondent notice that it had not received an Answer or a Request for a Hearing and that the Respondent had until March 7, 2016 to submit same or the matter would be brought before the next Board meeting where the Board may enter a Final Decision and Order that assumed the truth of the allegations in the Show Cause Order and may revoke, suspend or take other disciplinary action against her license to practice as a Pharmacy Technician, including her Right to Renew same.

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:

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.17147), effective ten days from the Date Issued, by the following vote:

In favor:	Ed Taglieri; Timothy Fensky; Michael Godek; Catherine Basile; William Cox; Andrew Stein; Phillippe Bouvier; Garret Cavanaugh
Opposed:	None
Abstained:	None
Recused:	Susan Cornacchio
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.

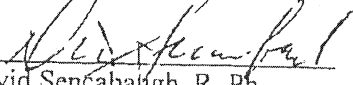
EFFECTIVE DATE OF ORDER

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 Sencabagh, R. Ph.  
Executive Director

Date Issued: 4/8/16

Notice to:

BY FIRST CLASS MAIL AND CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Christian Durex  


BY HAND

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

Christian Durex  
PT17147  
PHA-2014-0159  
Final Decision and Order by Default



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
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MARYLOU SUDDERS  
Secretary  
MONICA BHAREL, MD, MPH  
Commissioner

July 9, 2015

SENT BY REGULAR AND CERTIFIED  
MAIL, RETURN RECEIPT REQUESTED  
ARTICLE NO. 7014 2120 0002 1353 5121

Mr. Cristian Durex  
[REDACTED]

RE: In the Matter of Cristian Durex, License No. PT17147  
Docket No. PHA-2014-0159

Dear Mr. Durex,

Enclosed please find an Order to Show Cause. Thank you.

If you have any questions or concerns regarding same, please do not hesitate to contact me.

Sincerely,

Sean J. Casey  
Prosecuting Counsel

Enclosure

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

\_\_\_\_\_  
In the Matter of )  
Cristian Durex )  
License No. PT17147 )  
License Expires 12/2/15 )  
\_\_\_\_\_ )

Docket No. PHA-2014-0159

ORDER TO SHOW CAUSE

Cristian Durex, 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 license to practice as a Pharmacy Technician in the Commonwealth of Massachusetts, License No. PT17147, or your right to renew such license, pursuant to Massachusetts General Laws (G.L.) chapter 112, § 61 and Board regulation 247 CMR 9.00, based upon the following facts and allegations:

FACTUAL ALLEGATIONS

1. On or about September 9, 2013, you completed and submitted a Pharmacy Technician Registration Application ("Application") to the Massachusetts Board of Registration in Pharmacy. You completed and signed the Application under the pains and penalties of perjury and submitted same. Additionally, your Application was notarized and you provided picture identification.
2. In the Application, you were asked specifically in question number 5:  
  
"Have you ever been arrested, charged, arraigned, indicted, prosecuted, convicted or been the subject of an investigation or any court proceeding in relation to any felony or misdemeanor charge? If YES, please attach typewritten 8 1/2" by 11" sheet(s) of paper which provides dates and details describing the circumstances related to the matter(s); provide certified copies of court documents of any convictions (defined as any pleas that is accepted by a court; and complete a Criminal Offender Record Information (CORI) Form (available at [psliq.com](http://psliq.com))."
3. You answered in the negative, to the above Application question, failed to submit any information relative to any criminal cases, failed to provide records from any court, and failed to submit a completed CORI Form.
4. The Board has since learned of at least two criminal matters that you failed to disclose on the RA:
  - a. On or about February 15, 2011 you were arraigned before the Wrentham District Court (Docket 1057CR003013) for the criminal offense, Larceny

under \$250, a violation of G.L. c. 266 § 30(1) (a misdemeanor). It was alleged that you refused to return the house keys of a female friend, who was a single mother, after she and Attleboro Police requested that you do so, after you had been told to move out of her apartment as a result of your behavior. The charges were dismissed on December 6, 2011 upon your payment of restitution and court fees.

- b. On or about February 16, 2012 you were arrested for Larceny over \$250, a violation of G.L. c. 266, § 30(1) (a felony).<sup>1</sup> You were arraigned at the Attleboro District Court on April 24, 2012 (Docket No. [REDACTED]). Your employer at the time, JC Penny, contacted police after learning that from December, 2011 to February, 2012 you stole approximately \$500.00 in US currency and \$250.00 worth of store merchandise from them. You explained that you took the money to pay for other criminal matters in which you owed money. On August 23, 2012 you Admitted to Sufficient Facts and were placed on probation for a year. Your probation was formally terminated by the Court on September 5, 2013.

5. Unaware of these matters, and based upon the Application you submitted, the Board issued you a license to practice as a Pharmacy Technician on September 19, 2013 in the Commonwealth of Massachusetts, License No. PT17147. Your license is current and is due to expire on December 2, 2015.

6. Since then, you have worked as a Pharmacy Technician for CVS Pharmacy, located at 486 Pleasant Street, Attleboro, Massachusetts until you were suspended by them on or after May 9, 2014 and thereafter terminated.

7. On or after April 18, 2014, CVS's Loss Prevention Department began monitoring the CVS Pharmacy at 486 Pleasant Street, Attleboro, Massachusetts. You were working at that CVS Pharmacy at the time as a Pharmacy Technician. Loss Prevention reviewed old video footage taken from a visible "wide open camera" that was trained over a pharmacy bay, where staff could access various shelved controlled substances.<sup>2</sup>

8. During their review of this old video footage, Loss Prevention observed you walking down a pharmacy bay on February 16, 2014, engaged in suspicious activity; essentially "hugging" the bay (or seemingly using the bay to attempt to shield you from the view of others and the "wide open camera" that was fixed above that area), you were also seen crouching, bending, or turning, while placing your hands in or near your pockets, and occasionally looking over your shoulder.

<sup>1</sup> You were released on bail by the Clerk Magistrate and given a summons to report to Court the following day, February 17, 2012 to be arraigned. Despite this notice, you failed to appear in Court and a default warrant issued. You were arrested on April 23, 2012 in Attleboro after police were dispatched on the report of persons drinking underage. You fled when police first arrived but again returned and were spotted by police in the driver's seat of your mother's car. You were taken into custody on the warrant and into protective custody as a public intoxicant.

<sup>2</sup> It was later determined that Hydrocodone, among other controlled substances, was stored in this bay.



9. On May 9, 2014, you met with Loss Prevention, at their request, and admitted that while you were working as a Pharmacy Technician for them, you took items from the front store without paying for them. You also admitted taking random loose tablets you found in the pharmacy, brought them home and collected them in a jar. You then admitted that you would open bottles in the bays and put pills into your pockets. You admitted taking approximately one hundred (100) units of Hydrocodone 5/325; fifty (50) units of Alprazolam .5mg; and one (1) unit of Clonazepam .5mg on numerous occasions over the past three or four months.<sup>3</sup>
10. You explained to Loss Prevention that you had substance abuse issue(s) but also sold the Hydrocodone 5/325 to other(s) for \$4.00 per pill; as well as the Alprazolam .5mg and Clonazepam .5mg for \$1.00 per pill.
11. CVS's Loss Prevention Department performed an audit on that pharmacies' inventory, with respect to those medications, and it was determined that three hundred and sixty six (366) units of Hydrocodone 5/325 was missing and thirteen (13) units of Clonazepam .5mg was missing. It did not appear that Alprazolam .5mg was short in the count.
12. The Attleboro Police Department was called and you were arrested that day on an outstanding warrant and additionally charged with Larceny from a Building, a violation of G.L. c. 266, § 20 (a felony); Possession with Intent to Distribute a Class C substance (to wit: Alprazolam), a violation of G.L. c. 94C, § 32B(a) (a felony); and Possession with Intent to Distribute a Class E substance (to wit: Hydrocodone), a violation of G.L. c. 94C, § 32D(a) (a misdemeanor).<sup>4</sup>
13. While at Attleboro Police Department, after being read your rights, including your right to remain silent, you informed Detectives, during a videotaped interview, that over the course of three (3) or four (4) months, you stole approximately one hundred (100) Hydrocodone and fifty (50) or more Alprazolam from the CVS Pharmacy while working as a Pharmacy Technician on approximately ten (10) occasions and that during each theft you would take ten (10) to twenty (20) tablets and place them in your pocket. You admitted that you stole the medication and sold same to the mother of an acquaintance of yours.

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<sup>3</sup> Hydrocodone is a Schedule II narcotic (as of October, 2014) and Alprazolam and Clonazepam are Schedule IV controlled substances. Prior to that, Hydrocodone was classified as a Schedule III controlled substance.

<sup>4</sup> The docket sheets for all of your criminal cases contain numerous defaults and warrants as a result of your failures to appear for scheduled court events, despite being given bail warnings and bail being imposed. This shows your complete lack of respect for the court system and is yet more evidence that you are unable or unwilling to see that your poor choices have adverse consequences.

14. You were arraigned in the Attleboro District Court (Docket No. 1434CR01467) that day, May 9, 2014 but defaulted on July 1, 2014. A default warrant also issued with respect to Docket No. [REDACTED].
15. On July 30, 2014 you were arrested by the Cumberland (Rhode Island) Police Department on the warrants associated with Docket No. 1434CR01467 and Docket No. [REDACTED]. You were detained as a Fugitive from Justice by the Sixth Division District Court (Docket No. [REDACTED]). Cumberland Police observed you and several others young men entering abandoned Monastery Grounds in the area. You informed the police that you and the other young men were looking for ghosts. You were transported back to Massachusetts, on July 31, 2014.
16. Upon your return, Attleboro District Court removed the default and withdrew its warrants and continued your cases. Your drug cases are still pending there.
17. On May 31, 2014, at approximately 2:05PM, Massachusetts State Police was dispatched to a report of a motor vehicle crash on Route 95 South by the Attleboro Weigh Station. They observed a red Jeep Cherokee that you later admitted driving, on fire and on its roof in the wood line in the median. The other car that you struck was also disabled. You ran from the scene and were later found approximately one half mile away lying down near a fence on the side of the highway. You and the driver of the other car were taken to area hospitals and released without serious issue(s).
18. On August 6, 2014, a criminal complaint issued for your conduct on May 31, 2014. On September 15, 2014 you were arraigned in the Attleboro District Court (Docket No. [REDACTED]) for Negligent Operation of a Motor Vehicle, a violation of G.L. c. 90, § 24(2)(a) (a misdemeanor); Speeding, a violation of G.L. c. 90, § 17 (a civil infraction); Marked Lanes violation(s), a violation of G.L. c. 89, § 4A (a civil infraction); Operating the Motor Vehicle with a Suspended License, a violation of G.L. c. 90, § 23 (a misdemeanor); and Using the Motor Vehicle without Authority, a violation of G.L. c. 90, § 24(2)(a) (a misdemeanor). This case is also still pending.
19. You admitted driving "too fast, 90 mph - at least" and struck another car when you were attempting to pass him. You indicated you ran because you were scared and admitted knowing your license was suspended. The owner of the car you were driving informed police that she did not give you permission to drive her car.
21. You have never notified the Board of any of the above criminal cases nor have you ever provided the Board with any information, despite your obligation to do so in accordance with Pharmacy Board regulations.

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<sup>5</sup> This is a case in which you were charged with Operating after Suspension and cited for Failing to Stop/Yield on July 13, 2013 in Attleboro. The date of the criminal complaint, July 16, 2013, was also just prior to your submission of the Application.

## GROUNDS FOR DISCIPLINE

- A. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(e) by engaging in misconduct in the practice of the profession.
- B. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(f) by engaging in conduct beyond the authorized scope of a pharmacist, pharmacy intern or pharmacy technician.
- C. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(k) by 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 discipline in that you failed to comply with 247 CMR 10.03(1)(l) by engaging in conduct that has the capacity or potential to deceive or defraud.
- E. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(n) by being convicted of crime(s), entering plea(s) of guilty to any crime(s), entering plea(s) of *nolo contendere* to any crime(s), or admitting to sufficient facts to warrant finding(s) of guilt of any crime(s).
- F. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(o) by fraudulently procuring a license of registration or its renewal.
- G. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(p) by providing false information on an application for a license or registration or its renewal.
- H. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(q) by failing without cause to cooperate with any request by the Board to appear before it or to provide requested information; failing to respond to a Board subpoena or failing to furnish the Board, its investigators or representatives with records, documents, information or testimony to which the Board is legally entitled.
- I. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(r) by engaging in conduct that demonstrates a lack of good moral character.
- J. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(u) by engaging in conduct which undermines public confidence in the integrity of the profession.

K. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(v) by failing to comply with recognized ethical standards of the profession.

L. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(x) by violation of G.L. c. 94C or any rules or regulations promulgated there under.

M. Your conduct as alleged warrants discipline in that you failed to comply with 247 CMR 10.03(1)(aa) by 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.

N. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a Pharmacy Technician pursuant to G.L. c. 112, § 61 for deceit, malpractice, gross misconduct in the practice of the profession, or for any offense against the laws of the Commonwealth relating thereto.

O. Your conduct as alleged 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); *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, 143-44. *cert. denied*, 498 U.S. 823 (1990); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 713 (1982).

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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 above-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 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. 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.

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 license to practice as a Pharmacy Technician in the Commonwealth of Massachusetts, including any right to renew your license.

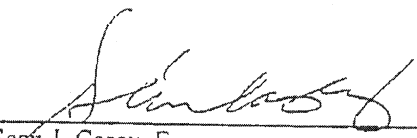
Your Answer to the Order to Show Cause and your written request for a hearing must be filed with Sean J. Casey, Prosecuting Counsel, at the following address:

Sean J. Casey  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel, 5<sup>th</sup> Floor  
239 Causeway Street  
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  
Patrick M. Gannon, R.Ph., MS, FABC

By:

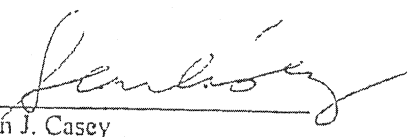
  
Sean J. Casey, Esq.  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel, 5<sup>th</sup> Floor  
239 Causeway Street  
Boston, MA 02114

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order to Show Cause was served upon the Respondent:

Mr. Cristian Durex

by first class mail, postage prepaid, and by Certified Mail, Return Receipt Requested,  
Article No. 7014 2120 0002 1353 5121

  
Sean J. Casey  
Prosecuting Counsel