

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

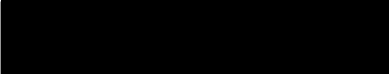
JOHN W. POLANOWICZ
SECRETARY

LAUREN A. SMITH, MD, MPH
INTERIM COMMISSIONER

Board of Registration in Pharmacy
239 Causeway Street, Suite 500, 5th Floor
Boston, MA 02114
617-973-0954

June 7, 2013

VIA FIRST CLASS AND CERTIFIED MAIL RETURN
RECEIPT REQUESTED NO. 7010 2780 0001 8675 9944
Christopher Turcotte



RE: In the Matter of Christopher Turcotte, PH License No. 9467
Board of Registration in Pharmacy Docket No. PHA-2012-0180

Dear Mr. Turcotte:

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,

A handwritten signature in cursive script, appearing to read "Heather Engman".

Heather Engman
Board Counsel
Board of Registration in Pharmacy

Enc.

cc: Eugene Langner, Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

)
In the Matter of)
Christopher Turcotte)
PT Registration No. 9467)
Registration Expires 2/4/14)
_____)

Docket No. PHA-2012-0180

FINAL DECISION AND ORDER BY DEFAULT

On April 22, 2013, the Board of Registration in Pharmacy ("Board") issued and duly served on Christopher Turcotte ("Respondent") an Order to Show Cause ("Show Cause Order")¹ related to a complaint filed regarding Respondent's registration. 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 Order². The Show Cause Order also notified Respondent of the right to request a hearing on the allegations³, and that any hearing request ("Request for Hearing") was to be submitted within 21 days of receipt of the Show Cause Order.⁴ Respondent was further notified that failure to submit an Answer within 21 days "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] registration...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 Pursuant to 801 CMR 1.01(6)(a).

² In accordance with 801 CMR 1.01(6)(d)(2).

³ Pursuant to M.G.L. c. 112, s. 61.

⁴ Respondent was also notified that failure to timely submit a Request for Hearing would constitute a waiver of the right to a hearing.

On May 17, 2013, Prosecuting Counsel sent notice to Respondent to file an Answer and a Request for Hearing by May 24, 2013. The notice again advised Respondent that if defaulted, the Board might enter a Final Decision and Order that assumes the truth of the allegations stated in the Show Cause Order and impose license discipline, 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, s. 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, s. 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 21 days of its receipt and of the consequences of failing to file an Answer or otherwise respond.

As authorized by M.G.L. c. 30A, s. 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:

ORDER

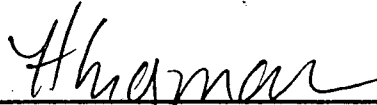
On June 4, 2013, in accordance with the Board's authority and statutory mandate, the Board voted to issue this Final Decision and Order by Default and REVOKE Massachusetts Pharmacy Technician Registration No. 9267 (expires 2/14/14) by the following vote, effective as of the date issued: in favor: J. DeVita, Rph; J. Franke, RN, MHA, K. Ryle, RPh, MS, E. Taglieri, RPh, MSM, NHA, J. Trifone, RPh, A. Young, RPh, EdD; opposing: none; abstaining: none.

The Board will review a petition for pharmacy technician registration in the Commonwealth filed upon receipt from the Respondent of documentation that he has completed two (2) contact hours of continuing education on the topic of "prevention of medication errors."

While Respondent's pharmacy technician registration is REVOKED, Respondent may not: (1) be employed in any capacity to provide any services 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 licensure or registration by the Board, Respondent will be required to meet all requirements for licensure or registration at the time of any such application, including but not limited to, re-application, re-examination and re-training and any other requirements that may be established by Board Policy 2011-02: License Reinstatement Following Surrender, Suspension or Revocation, as such policy may be amended.

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



Heather Engman
Board Counsel

Date issued: June 7, 2013

Notice to:

BY FIRST CLASS MAIL AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Christopher Turcotte

BY HAND

Eugene Langner, Esq.
Office of Prosecutions
Department of Public Health
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)
Christopher Turcotte)
PT Registration No. 9467)
Registration Expires 2/4/14)
_____)

Docket No. PHA-2012-0180

ORDER TO SHOW CAUSE

Christopher Turcotte, 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 pharmacy technician in the Commonwealth of Massachusetts, PT Registration No. 9467, or your right to renew such registration, pursuant to Massachusetts General Laws (G.L.) chapter 112, § 61 and Board regulation 247 CMR 9.00, based upon the following facts and allegations:

1. On or about March 12, 2008, the Board issued you a registration to practice as a pharmacy technician in the Commonwealth of Massachusetts, PT Registration No. 9467. Your registration is current and expires on February 4, 2014.
2. On or about March 6, 2012, while you were employed as a pharmacy technician at the Rite Aid Pharmacy # 10137 in Canton, Massachusetts ("Rite Aid"), a patient ("Patient A") presented at Rite Aid with a prescription for clonazepam.
3. On or about March 6, 2012, you dispensed a quantity of atenolol to Patient A.
4. When Patient A questioned you regarding the medication you dispensed to her as described in Paragraph 3 above, you said that she would have been informed if her medication had been changed.
5. As a result of your conduct as described in Paragraphs 3 and 4 above, Patient A took a number of doses of atenolol, thereby experiencing a decrease in her blood pressure.
6. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as a pharmacy technician pursuant to 247 CMR 9.00, for violation of the Code of Professional Conduct and Professional Standards for Registered Pharmacists, Pharmacies and Pharmacy Departments, namely: 247 CMR 9.01(1) for failing to conduct professional activities in conformity with federal, state and municipal laws, ordinances and/or regulations, including the regulations of the Board.

7. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacist pursuant to 247 CMR 10.03(1) on the following Grounds for Discipline:
- (a) 247 CMR 10.03(1)(a) for violating any of the duties and standards set out in Board regulations (247 CMR 2.00 *et seq.*) or any rule or written policy adopted by the Board;
 - (b) 247 CMR 10.03(1)(b) for violating any provision of M.G.L. c. 112, §§ 24 through 42A or any provision of state or federal statutes or rules or regulations promulgated thereunder related to the practice of the profession;
 - (c) 247 CMR 10.03(1)(e) for engaging in misconduct in the practice of the profession;
 - (d) 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;
 - (e) 247 CMR 10.03(1)(l) for engaging in conduct that has the capacity or potential to deceive or defraud;
 - (f) 247 CMR 10.03(1)(u) for engaging in conduct which undermines public confidence in the integrity of the profession;
 - (g) 247 CMR 10.03(1)(v) for committing an act that violates recognized standards of pharmacy practice;
 - (h) 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, pharmacy interns, pharmacies and pharmacy departments set forth in 247 CMR 9.01: *Code of Conduct for Registered Pharmacists, Pharmacies and Pharmacy Departments.*
8. 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 § 61 for deceit, malpractice, and gross misconduct in the practice of the profession or for any offense against the laws of the Commonwealth relating thereto.
9. 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); *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 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 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 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 Eugene Langner, Prosecuting Counsel, at the following address:

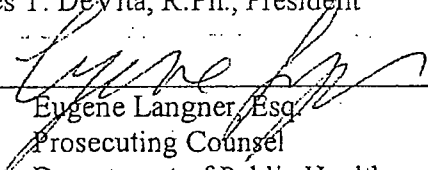
Eugene Langner, Esq.
Prosecuting Counsel
Department of Public Health
Office of the General Counsel, 5th Floor
239 Causeway Street
Boston, MA 02114

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) 973-0838 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION IN PHARMACY

James T. DeVita, R.Ph., President

By:


Eugene Langner, Esq.
Prosecuting Counsel
Department of Public Health

Date: April 22, 2013

CERTIFICATE OF SERVICE

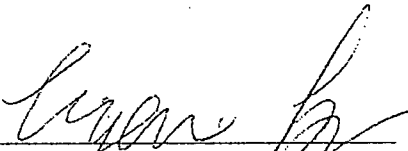
I hereby certify that a copy of the foregoing Order to Show Cause was served upon the Respondent:

Christopher Turcotte



by first class mail, postage prepaid, and by Certified Mail No. 7010 1870 0002 2380 6346

This 22nd day of April, 2013.



Eugene Langner
Prosecuting Counsel