

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

)
Board of Registration in Pharmacy,))
Petitioner,))

v.)

Docket No. PHA-2017-0214

)
)
Hygor Pontes,)
PT Registration No. PT11707)
Registration Expired 12/19/17,)
Respondent)
_____)

FINAL DECISION AND ORDER BY DEFAULT

On September 28, 2018, the Board of Registration in Pharmacy (Board) issued and duly served on Hygor Pontes (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

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.

Final Decision and Order by Default
Hygor Pontes
PT11707
PHA-2017-0214

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.

On October 25, 2018, Prosecuting Counsel sent notice to Respondent to file an Answer and a Request for Hearing by November 5, 2018. 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 registration 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 an Answer or 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 Massachusetts General Laws (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 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 Show Cause Order 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:

Final Decision and Order by Default
Hygor Pontes
PT11707
PHA-2017-0214

ORDER

On December 6, 2018, 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 license, PT11707, effective ten days from the Date Issued, by the following vote:

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

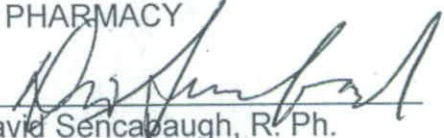
EFFECTIVE DATE OF ORDER

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

Final Decision and Order by Default
Hygor Pontes
PT11707
PHA-2017-0214

Date Issued: December 12, 2018

Notice to:

BY FIRST CLASS & CERTIFIED MAIL NO. 7015 3010 0001 7079 7594,
RETURN RECEIPT REQUESTED

Hygor Pontes
74a Elm Street
Framingham, MA 01702

BY FIRST CLASS & CERTIFIED MAIL NO. 7017 0530 0000 0551 9847,
RETURN RECEIPT REQUESTED

Darry E. Holt, Esq.
91 Main Street
Concord, MA 01742

BY HAND

Eugene Langner
Prosecuting Counsel
Massachusetts Department of Public Health
Office of the General Counsel
250 Washington Street
Boston, MA 02108