



Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
Division of Health Professions Licensure  
Board of Registration in Pharmacy

239 Causeway Street, Suite 500, Boston, MA 02114

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Governor

KARYN E. POLITO  
Lieutenant Governor

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MARYLOU SUDDERS  
Secretary

MONICA BHAREL, MD, MPH  
Commissioner

June 18, 2015

**VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
RECEIPT REQUESTED NO. 7009 2250 0001 8154 9180**

Jennica Cesar  
[REDACTED]

**COPY**

**VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
RECEIPT REQUESTED NO. 7014 0510 0001 0375 1858**

Jennica Cesar  
[REDACTED]

**RE: In the Matter of Jennica M. Cesar, PT License No. 14195  
Board of Registration in Pharmacy Docket No. PHA-2013-0182**

Dear Ms. Cesar:

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: Beverly Kogut, Administrative Hearings Counsel  
Patricia Blackburn, Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

\_\_\_\_\_  
)  
IN THE MATTER OF )  
JENNICA M. CESAR )  
PT LICENSE NO. 14195 )  
(PT LICENSE EXP. DATE 7/21/2015) )  
\_\_\_\_\_ )

DOCKET NO. PHA-2013-0182

**FINAL DECISION AND ORDER BY DEFAULT**

Pursuant to Massachusetts General Laws Chapter 30A, § 10 (2) and 801 CMR 1.01 (7) (a), the failure of Jennica M. Cesar, pharmacy technician (PT License No. 14195) ("Respondent"), after due notice, to respond to notices and correspondence and defend in this matter, the Board of Registration in Pharmacy ("Board") issues this Final Decision and Order by Default.

**Procedural Background**

On October 9, 2014, the Board issued an Order To Show Cause ("Show Cause Order") commencing this disciplinary proceeding against the registration of Respondent, Jennica M. Cesar, to practice as a pharmacy technician in the Commonwealth of Massachusetts. A copy of the Show Cause Order is attached to this Final Decision and Order by Default and is incorporated herein by reference. Among other things, the Show Cause Order advised Respondent that, notwithstanding the filing of an answer, failure to respond to notices or correspondence, failure to appear for any scheduled conference, or failure to otherwise defend in this action would result in entry of default. The Show Cause Order specified the consequences of an entry of default. It notified Respondent that upon default the Board may enter a Final Decision and Order that assumes the truth of the allegations set forth in the Show Cause Order and may revoke, suspend or take other appropriate action against Respondent's registration to practice as a pharmacy technician, including her right to renew.

On or about November 14, 2014, Respondent filed an answer and request for hearing. Since filing her answer, Respondent has failed to respond to all notices and correspondence from the Board, despite due notice. Specifically, Respondent has failed to respond to Prosecuting Counsel's November 19, 2014 and February 24, 2015 written requests for information, discovery and an amended answer and Prosecuting Counsel's March 6, 2015 Motion for an Amended Answer to the Order to Show Cause and to Compel Compliance with

Discovery Request. She has failed to respond to the Administrative Hearings Counsel's (AHC) March 16, 2015 order (Order), which granted the motion and ordered Respondent to timely respond or comply. That Order notified Respondent that "failure to timely comply with this order or failure to defend this action may result in default." The Order further stated the consequences of default, set out above. When Respondent failed to timely respond to the Order, Prosecuting Counsel filed a March 27, 2015 Motion for Entry of Default Judgment. On April 6, 2015, Prosecuting Counsel filed a Request for Default Judgment notifying the AHC of Respondent's failure to timely respond to her Motion for Entry of Default and that since Respondent filed her answer, she had failed to respond to all notices and correspondence.

On April 8, 2015, the AHC granted Prosecuting Counsel's motion and request for default and issued a Notice of Default, notifying Respondent that she had seven (7) days to request removal of the default and that if she failed to demonstrate good cause for her failure to defend, the Board would issue a Final Decision and Order on Default with appropriate sanctions. Respondent failed to file a request to remove the default and the time period for removing the default has expired. The Board takes administrative notice of the pleadings and correspondence that have been filed and issued in this case.

The Board finds that despite due notice Respondent has failed to respond to notices, motions, and communications, including, but not limited to, the March 16, 2015 Order and April 8, 2015 Notice of Default, has otherwise failed to respond and defend in this action, and is defaulted.<sup>1</sup>

#### Discussion

As authorized by G.L. c. 30A, § 10 (2), the Board may make informal disposition of any adjudicatory proceeding by default. 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

<sup>1</sup> Respondent has received due notice of the mailings from the Board and Prosecuting Counsel in this proceeding. All mailings were sent to Respondent via First Class and Certified Mail Return Receipt requested to the address provided by Respondent in her answer and prior correspondence with Prosecuting Counsel [REDACTED]. The record demonstrates that Respondent receives mail at this address. The First Class mailings have not been returned to the Board. The United States Postal Service (USPS) has provided the Board with evidence that Prosecuting Counsel's March 6, 2015 Motion was received on March 9, 2015; the March 16, 2015 AHC Order was signed for and received on March 19, 2015; and that the April 8, 2015 Notice of Default was signed for and received on April 18, 2015. Further, all mailings were sent via First Class and Certified Mail Return Receipt Requested to Respondent's official address of record on file with the Board ([REDACTED]). Mailings were sent to this address until the USPS notified the Board that Respondent had moved. Thereafter, all mailings were sent to the forwarding address for Respondent provided by the USPS ([REDACTED]).

has also notified Respondent of the consequences of failing to defend or otherwise respond. By reason of Respondent's failure to defend the Board enters default against Respondent and issues this Final Decision and Order. University Hospital v. MCAD, 396 Mass. 533, 539 (1986)(approving administrative agency's imposition of default where it provided reasonable procedural safeguards for notice of consequences of failure to answer and opportunity to object and where judicial review of entire proceeding was available if sought); Wang v. Board of Registration in Medicine, 405 Mass. 15, 19-20 (1989) (where professional lacked current license to practice in the Commonwealth, board had jurisdiction based on professional's inchoate right to renew license).

The Board finds that the allegations in the Show Cause Order and the violations of statutes, laws and regulations stated therein are deemed admitted and established and Respondent has waived the right to be heard. Productora e Importadora de Papel S. A. de C.V. v. Fleming, 376 Mass. 826, 833-835 (1978)(default establishes truth of allegations); Danca Corp. v. Raytheon Co., 28 Mass. App. Ct. 942, 943 (1990) (upon default, allegations of complaint are accepted as true). Wherefore, in accordance with the Board's authority and statutory mandate, the Board orders as follows:

#### ORDER

In accordance with the Board's authority and statutory mandate, the Board orders as follows:

On June 2, 2015, 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 (No. PT14195), effective ten days from the Date Issued, by the following vote: In favor: Patrick M. Gannon; Edmund Taglieri; Garrett J. Cavanaugh; Catherine T. Basile; William E. Cox; Susan Cornacchio; Timothy D. Fensky; Richard Tinsley; Andrew Stein; and Phillippe Bouvier. Opposed: None. Absent: Karen Conley. Recusal: Michael Godek.

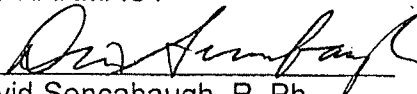
The Board will not review any petition for reinstatement of Respondent's pharmacy technician license prior to June 29, 2020.

**EFFECTIVE DATE OF ORDER**

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


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: 6/18/15

Notice to be sent to:

**BY FIRST CLASS AND CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED NO. 7009 2250 0001 8154 9180**  
Jennica Cesar  


**BY FIRST CLASS AND CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED NO. 7014 0510 0001 0375 1858**  
Jennica Cesar  


**INTEROFFICE DELIVERY**  
Patricia Blackburn, Prosecuting Counsel  
Division of Health Professions Licensure  
Department of Public Health  
239 Causeway Street, 4<sup>th</sup> Floor  
Boston, MA 02114

Beverly Kogut, Administrative Hearings Counsel  
Division of Health Professions Licensure  
Department of Public Health  
239 Causeway Street, 5<sup>th</sup> Floor  
Boston, MA 02114

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

In the Matter of )  
JENNICA M. CESAR )  
PT Registration No. 14195 )  
Registration Expires 07/21/2015 )

Docket No. PHA-2013-0182

**ORDER TO SHOW CAUSE**

JENNICA M. CESAR 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 in the Commonwealth of Massachusetts, Registration No. 14195 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:

Factual Allegations

Pre-Application Criminal Activity

1. On December 20, 2005, you were stopped by a Sudbury Police Officer for speeding on a public way in Sudbury, Massachusetts. The Officer issued to you a citation for Operating a Motor Vehicle after Suspension and Speeding.
2. The citation referred to in Paragraph 1 indicated that the offense of Operating a Motor Vehicle after Suspension was a criminal charge.
3. On April 12, 2006, you were arraigned in the Framingham District Court, Docket No. [REDACTED] for the misdemeanor offense of Operating a Motor Vehicle with a Suspended License ("Framingham case"). The Framingham case was dismissed on June 27, 2007.
4. On August 5, 2007, you were arrested for shoplifting from several stores at the Meadow Glen Mall in Medford, Massachusetts. You were arraigned on August 8, 2007, in the Somerville District Court, Docket No. [REDACTED] for the felony offense of Larceny Over \$250 and for the misdemeanor offense of Disorderly Conduct ("Somerville case").
5. On October 19, 2007, you admitted to sufficient facts to warrant a finding of guilty in the Somerville District Court for the misdemeanor offenses of Larceny Under \$250 and Disorderly Conduct. The Somerville case was continued without a finding for one (1) year.

PT Application

6. On or about June 1, 2011, you signed and submitted an application for Pharmacy Technician ("PT") registration in Massachusetts.
7. Section D of the application referred to in Paragraph 6 asked the following question, which you answered in the negative: "have you been arrested, charged, arraigned, indicted, prosecuted, convicted or been the subject of any investigation or any court proceeding in relation to any felony or misdemeanor charge?"

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8. You failed to disclose any information related to the arrest, charges, arraignments, prosecutions, and court proceedings referred to in Paragraph Nos. 1 through 5 in your application for PT registration in Massachusetts.
9. In Section E of the application referred to in Paragraph 6, you acknowledged that by your signature on the application, you certified "under the pains and penalties of perjury," that the information you provided pursuant to the application "is truthful and accurate" and that "the failure to provide accurate information may be grounds for the Board of Registration in Pharmacy" to "revoke the right to function as a PT, in accordance with Massachusetts law."
10. In Section E of the application referred to in Paragraph 6, you acknowledged that you were "responsible for reading, understanding, and abiding by the rules and regulations of the Board of Registration in Pharmacy; statutes pertaining to the practice of pharmacy (M.G.L. c. 112, [§§]24-42 and G.L. c. 94C); and 247 CMR (Code of Massachusetts Regulations)."
11. The information you supplied for Sections D and E of the application referred to in Paragraph 6 was not truthful or accurate.
12. On or about July 11, 2011, the Board issued to you a Pharmacy Technician ("PT") registration, Registration No. 12489.

Post-Application Criminal Activity

13. On January 2, 2013, you were arrested for shoplifting from Stop & Shop in Watertown, Massachusetts. You were arraigned on January 3, 2013, in the Waltham District Court, Docket No. [REDACTED], for the felony offense of Larceny Over \$250 ("Waltham case").
14. On March 14, 2013, you admitted to sufficient facts to warrant a finding of guilty in the Waltham District Court for the misdemeanor offense of Larceny Under \$250. The Waltham case was continued without a finding for one (1) year.
15. On August 2, 2013, you were arrested in Manchester, New Hampshire, for hitting your boyfriend on his face with your right hand, and breaking the passenger-side rearview

mirror of his car. You were arraigned on August 2, 2013 in the 9<sup>th</sup> Circuit-Manchester District Court, County of Hillsborough, New Hampshire, Docket No. [REDACTED] for simple assault and criminal mischief.

16. On November 13, 2013, the State of New Hampshire elected not to prosecute the charges referred to in Paragraph 15 by filing a nolle prosequi.
17. You failed to inform the Board of the pending criminal charges referred to in Paragraphs 13 and 15.
18. You failed to inform the Board of your admission to sufficient facts to warrant a finding of guilty referred to in Paragraph 14.

PT Employment

19. You were employed as a Pharmacy Technician at Walgreens #13804 ("Walgreens") located at 266 Washington Street, Wellesley, Massachusetts, 02481, from December 27, 2011 through September 13, 2013.
20. On September 13, 2013, while being interviewed by a District Loss Prevention Manager for Walgreens ("LP"), you informed LP that you took from Walgreens, one (1) full bottle containing 30, 20 milligram tablets of Cialis.
21. As a result of your conduct referred to in Paragraph 20, Walgreens incurred a loss of approximately \$1,114.50.
22. On September 13, 2013, you signed a voluntary statement, which you offered as a true and accurate statement of the facts, concerning the conduct referred to in Paragraph 20.
23. In the September 13, 2013 signed statement, you further acknowledged that no promises had been made to you and that you had not been threatened or mistreated by LP.

Address Change

24. On or about February 4, 2014, the Board sent by certified mail, a letter addressed to you at [REDACTED] requesting that you provide a written response to the allegations contained in the complaint against your PT license ("the February Letter"). The February Letter was returned by the United States Postal Service ("USPS") to the Board as "unclaimed" on March 3, 2014.
25. On September 11, 2014, you provided an additional mailing address in [REDACTED] [REDACTED] to which a letter containing the Board's offer of settlement was sent the same day ("the September Letter").



26. On or about September 15, 2014, a letter requesting change of address or box-holder information was sent on behalf of the Board, to the Postmaster for [REDACTED] [REDACTED] ("Postmaster Letter").
27. On September 22, 2014, the September Letter was by returned by USPS as "unable to forward" and in response to the Postmaster Letter, the Postmaster indicated that you moved and left no forwarding address.
28. As of September 24, 2014, your address of record with the Board was on [REDACTED] in [REDACTED].
29. You failed to put in writing to the Board, your change of address or your current address.
30. You failed to apply for an amended license immediately upon changing your address.

Grounds 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 registration to practice as an Pharmacy Technician pursuant to G.L. c. 112, §61 for deceit, malpractice, and gross misconduct in the practice of the profession and for any offense against the laws of the Commonwealth relating thereto.
- C. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(b) because you violated a provision of G.L. c. 112, §24-42A by failing to notify the Board, in writing, of your change of address or your current address.
- D. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(e) because you engaged in misconduct in the practice of the profession.
- E. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(n) because you admitted to sufficient facts to warrant a finding of guilty of a crime.
- F. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(o) because you fraudulently procured a license or registration or its renewal.

- G. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(p) because you provided false information on an application for a license or registration or its renewal.
- H. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(r) because you engaged in conduct that demonstrates lack of good moral character.
- I. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(u) because you engaged in conduct which undermines public confidence in the integrity of the profession.
- J. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(v) because you committed an act that violates recognized standards of pharmacy practice.
- K. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(w) because you failed 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 for Conduct for Registered Pharmacists, Pharmacies and Pharmacy Departments*.
- L. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(x) because you violated G.L. c. 94C or any rules and regulations promulgated thereunder.
- M. Your conduct as alleged, warrants disciplinary action by the Board against your registration to practice as a Pharmacy Technician pursuant to Board regulation 247 CMR 10.03(1)(aa) because you failed to report to the Board, in writing, within 30 days, any pending criminal charge or conviction as defined in 247 CMR 10.02, in Massachusetts or any other jurisdiction.
- N. Your conduct as alleged also constitutes unprofessional conduct and conduct that undermines public confidence in the integrity of the nursing profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); see also *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).

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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 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.

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~~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 offered 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 above-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 Michelle Fentress, Prosecutor at the following address:

Michelle D. Fentress, Esq.  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel  
239 Causeway Street, Suite 500  
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 Prosecutor. If you elect to undertake such an examination, then please contact Prosecuting Counsel in advance at (617) 973-0979 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION  
IN PHARMACY,  
Karen M. Ryde, MS RPh, President

By: 

Michelle D. Fentress, Esq.  
Prosecuting Counsel  
Department of Public Health

Date: October 9, 2014

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Cover Letter, Order to Show Cause and Certificate of Service were served upon the Licensee, Jennica M. Cesar at the following address of record with the Board:

Jennica M. Cesar  


by first class mail, postage prepaid, and certified mail no. 7012 3460 0002 3702 5763

This 9<sup>th</sup> day of October, 2014.

And at the following address:

Jennica M. Cesar  


by first class mail, postage prepaid, and certified mail no. 7012 3460 0002 3702 5770

This 9<sup>th</sup> day of October, 2014.



Michelle D. Fentress, Esq.  
Prosecuting Counsel