

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

)
Board of Registration in Pharmacy)
Petitioner)
v.)
JONATHAN ROGERS)
License No. PH23348)
License Expired 12/31/2016,)
Respondent)
_____)

Docket No. PHA-2021-0032

FINAL DECISION AND ORDER BY DEFAULT

On June 23, 2022, the Board of Registration in Pharmacy (“Board”) issued and duly served on Jonathan Rogers (“Respondent”), an Order to Show Cause (“Show Cause Order”) related to a complaint filed regarding Respondent’s license.¹ 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 Order.² The Show Cause Order also notified Respondent of the right to request a hearing on the allegations,³ 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 above-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, § 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.

allegations in the Show Cause Order and may revoke, suspend, or take other disciplinary action against [Respondent's] license...including any right to renew [Respondent's] license.” A copy of the Show Cause Order 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 M.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 M.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 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, § 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 September 1, 2022, 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 pharmacist license, PH23348.

In Favor: Sebastian Hamilton, Caryn Belisle, Carly Jean-Francois, Julie Lanza, Jennifer Chin, John Rocchio, Dr. Richard Lopez, Sami Ahmed, Rita Morelli, Katie Thornell

Opposed:

Abstained:

Recused:

Absent: Dawn Perry, Delilah Barnes

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 that 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 PHARAMCY

David Sencabaugh

David Sencabaugh
Executive Director

Date Issued: 9/13/2022

Jonathan Rogers
PH23348
PHA-2021-0032
Final Decision and Order

Notice to:

**Via First Class & Certified Mail No. 7019 0140 0000 7222 9129,
return receipt requested:**

Jonathan Rogers
8761 E Mineral Circle
Centennial, CO 80112

By Hand:

Patricia Blackburn, Esq.
Prosecutor
Massachusetts Department of Public Health
Office of General Counsel
250 Washington Street
Boston, MA 02108

Certificate of Service

I hereby certify that a copy of the foregoing *Final Decision and Order by Default* was served upon the Respondent, Jonathan Rogers, at his address of record with the Board by first class and certified mail no. 7019 0140 0000 7222 9129, return receipt requested:

Jonathan Rogers
8761 E Mineral Circle
Centennial, CO 80112

By Hand:
Patricia Blackburn
Acting Chief Prosecutor
Massachusetts Department of Public Health
Office of the General Counsel
250 Washington Street
Boston, MA 02108

This 13th day of September, 2022

____s/_____

Michael Egan
Board Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

Board of Registration in Pharmacy,
Petitioner
v.
JONATHAN ROGERS
PH License No. 23348
License Expired 12/31/2016
Respondent

Docket No. PHA-2021-0032

ORDER TO SHOW CAUSE

JONATHAN ROGERS, 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 pharmacist (PH) in the Commonwealth of Massachusetts, License No. PH23348, or your right to renew such license, pursuant to Massachusetts General Laws (G.L.) chapter 112, §§ 42A and 61 and Code of Massachusetts Regulations (CMR), Title 247, §10.03, based upon the following facts and allegations:

1. On or about June 25, 1996, the Board issued to you a license to engage in the practice of pharmacy in the Commonwealth of Massachusetts, License No. PH23348. Your MA license expired on December 31, 2016.
2. At all times relevant to the allegations in this Order to Show Cause, including on and around June 2018, you possessed a pharmacist license in the State of Colorado, license number PHA 17676.
3. On or about June 29, 2018, the Colorado State Board of Pharmacy suspended your Colorado pharmacist license, Case No: 2018-4889, for conduct including diversion of controlled substances, dispensing medications without a valid prescription, and forging prescriptions.

Grounds for Discipline¹

- A. Your conduct, and the resulting discipline to your CO nursing license, as alleged in Paragraph Nos. 1-3, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your license to practice as an PH pursuant to G.L. c. 112, §42A for violation of the rules and regulations established by the Board.
- B. Your conduct, and the resulting discipline to your CO nursing license, as alleged in Paragraph Nos. 1-3, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your license to practice as an PH pursuant to G.L. c. 112, §61, for deceit, malpractice, and/or gross misconduct in the practice of the profession and for any offense against the laws of the Commonwealth relating thereto.
- C. Your conduct, and the resulting discipline to your CO nursing license, as alleged in Paragraph Nos. 1-3, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your license to practice as an PH pursuant to Board regulation 247 CMR 10.03(1)(t) for having been disciplined in another jurisdiction in any way for reasons substantially the same as those set forth in 247 CMR 10.03.
- D. Your conduct, and the resulting discipline to your CO nursing license, as alleged in Paragraph Nos. 1-3, as well as other evidence that may be adduced at hearing, constitutes unprofessional conduct and/or 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).
- E. Your conduct, and the resulting discipline to your CO nursing license, as alleged in Paragraph Nos. 1-3, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your license to practice as a PH pursuant to Massachusetts case law. *See, Anusavice v. Board of Registration in Dentistry*, 451 Mass. 786 (2008).

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

¹ It is well-settled administrative law that due process requires that "notice must be given that is reasonably calculated to apprise an interested party of the proceeding and to afford him an opportunity to present his case;" due process does not require Prosecuting Counsel to provide a detailed description of evidence they intend to introduce at a disciplinary hearing. *Langlitz v. Board of Registration of Chiropractors*, 396 Mass. 374, 376-377 (1985). *See Lapointe v. License Board of Worcester*, 389 Mass. 454, 458 (1983) ("[d]ue process requires notice of the grounds on which the board might act rather than the evidentiary support for those grounds"). Thus, notice pleadings do not require Prosecuting Counsel to match factual allegations to grounds for discipline. Similarly, factual allegations are not necessarily an exhaustive characterization of the evidence to be adduced at a hearing.

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 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 license to practice as a Pharmacist 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 Patricia M. Blackburn, Prosecuting Counsel, at the following address:

Patricia M. Blackburn, Esq.
Prosecuting Counsel
Department of Public Health
Office of the General Counsel

250 Washington Street, 2nd floor
Boston, MA 02108-4619

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, please contact Prosecuting Counsel in advance at patricia.blackburn@mass.gov to schedule a time that is mutually convenient.

BOARD OF REGISTRATION IN PHARMACY,

By: /s/ Patricia M. Blackburn
Patricia M. Blackburn, Esq.
Prosecuting Counsel
Department of Public Health

June 23, 2022

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, Jonathan Rogers, at his address of record with the Board:

8761 E Mineral Circle
Centennial, CO 80112

by First Class Mail, postage prepaid, and Certified Mail No. 7020 0090 0001 1045 1194.

this 23rd day of June 2022.

A handwritten signature in cursive script, appearing to read "Irene Chu", written over a horizontal line.

Irene Chu
For Patricia M. Blackburn, Esq.
Prosecuting Counsel