



DEVAL L. PATRICK
GOVERNOR

JOHN W. POLANOWICZ
SECRETARY

CHERYL BARTLETT, RN
COMMISSIONER

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

Tel: 617-973-0900
TTY : 617-973-0988
www.mass.gov/dph/boards/rn

October 9, 2014

VIA FIRST CLASS AND CERTIFIED MAIL RETURN
RECEIPT REQUESTED NO. 7012 3460 0001 7331 4389

Kathleen Hannify

redact

RE: In the Matter of Kathleen Hannify, PT License No. 16266
Board of Registration in Pharmacy Docket No. PHA-2014-0070

Dear Ms. Hannify:

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 3 of the *Final Order* ("Date Issued"). Your appeal rights are noted on page 3 of the *Final Order*.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Sencabaugh".

David Sencabaugh, R. Ph.
Executive Director

Enc.

cc: Beth A. Oldmixon, Esq., Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of
KATHLEEN HANNIFY
PT Registration No. 16266
REG. EXP. DATE 4/12/2015

Docket No. PHA-2014-0070

PROPOSED FINAL DECISION AND ORDER BY DEFAULT

On June 5, 2014, the Board of Registration in Pharmacy ("Board") issued and duly served on Kathleen Hannify ("Respondent"), an Order to Show Cause ("Show Cause Order")¹ related to a complaint filed regarding Respondent's license. 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 above-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] 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, s. 10, and sufficient notice of the issues involved to afford Respondent reasonable opportunity to

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.

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:

On August 5, 2014, 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. 16266), effective as of the date issued (see below), by the following vote: In favor: K. RYLE; P. GANNON; A. YOUNG; R. TINSLEY; J. TRIFONE; J. FRANKE; T. FENSKY; A. PERRONE; Opposed: None; Abstain: None; Absent: J. DEVITA; E. TAGLIERI.

The Board will not review any petition for pharmacy technician licensure in the Commonwealth filed sooner than five (5) years from the Effective Date of this Final Decision and Order by Default. 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. If at any time in the future Respondent seeks re-licensure by the Board, Respondent will be required to meet all current requirements for licensure at the time of any such application, including, but not limited to, re-application, re-examination, re-training and moral character qualifications (including consideration of any convictions or

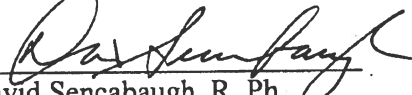
unlawful activity), and any other reinstatement terms and conditions the Board may deem to be necessary and appropriate. Respondent is hereby advised that the Board does not envision any terms or conditions pursuant to which the Board would consider Respondent to be qualified for licensure as a pharmacy technician in the Commonwealth in the future.

EFFECTIVE DATE OF ORDER

The Final Decision and Order by Default shall be effective as of October 9, 2014.

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 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: October 9, 2014

Notice to:

VIA FIRST CLASS AND CERTIFIED MAIL RETURN
RECEIPT REQUESTED NO. 7012 3460 0001 7331 4389

Kathleen Hannify

redact

BY HAND DELIVERY

Beth Oldmixon, Esq., Prosecuting Counsel



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure
Office of General Counsel
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Fax: 617-973-0986
www.mass.gov/dph/boards

June 27, 2014

Kathleen M. Hannify

redact

RE: In the Matter of Kathleen M. Hannify, PT Registration No. 16266
Board of Registration in Pharmacy, Docket No. PHA-2014-0070

Dear Ms. Hannify:

On June 5, 2014, an Order to Show Cause ("Order") was issued on behalf of the Board of Registration in Pharmacy ("Board"). That Order advised you that you must file an Answer to the Order to Show Cause ("Answer") and a Request for a Hearing within twenty-one (21) days. More than 21 days have passed since that Order was sent and, to date, you have failed to file either document.

This office must receive your *Answer* and a *Request for a Hearing* no later than July 9, 2014 if you dispute the allegations in the Order to Show Cause and wish to preserve your right to contest those allegations at a hearing. Your failure to submit a written *Answer* and a *Request for a Hearing* shall result in the entry of default in the above-captioned matter and shall constitute a waiver of your right to a hearing on the allegations therein and on any Board disciplinary action.


Your Answer to the Order to Show Cause and your *written* request for a hearing must be filed with Beth A. Oldmixon, Prosecuting Counsel, at the following address:

Beth A. Oldmixon
Prosecuting Counsel
Department of Public Health
Office of the General Counsel
239 Causeway Street, 5th Floor
Boston, MA 02114

If you are defaulted, the Board will 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.

Do not hesitate to call me at (617) 973-0923 if you have any questions or concerns.

Sincerely,


Beth A. Oldmixon
Prosecuting Counsel



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

DEVAL L. PATRICK
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www.mass.gov/dph/boards

June 5, 2014

BY FIRST CLASS AND CERTIFIED
MAIL NO. 7012 0470 0001 3611 8593

Kathleen M. Hannify

redact

RE: In the Matter of Kathleen M. Hannify, PT Registration No. 16266
Board of Registration in Pharmacy, Docket No. PHA-2014-0070

Dear Ms. Hannify:

The Massachusetts Board of Registration in Pharmacy within the Department of Public Health, Division of Health Professions Licensure (Division), has completed its investigation of the above-listed complaint against your registration to practice as a Pharmacy Technician. For the reasons set forth in the attached Order to Show Cause, the Board is proposing to suspend, revoke or impose other discipline against your registration as a Pharmacy Technician (Registration No. PT16266).

The Order to Show Cause and any subsequent hearing are governed by Massachusetts General Laws Chapter 30A, the State Administrative Procedure Act, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 et. seq. You must submit an Answer to the Order to Show Cause and you have a right to request a hearing by filing a written request for a hearing, as specified in the Order to Show Cause.

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 above-referenced matter. 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 therein 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 Massachusetts, including any right to renew your license.


The request for a hearing and your Answer must be filed with Beth A. Oldmixon, Prosecuting Counsel at the following address:

Beth A. Oldmixon
Prosecuting Counsel
Department of Public Health
Office of the General Counsel
239 Causeway Street, Suite 500, 5th Floor
Boston, Massachusetts 02114

If you are represented by an attorney in this matter, all communications should be made through your attorney.

You may contact me at (617) 973-0923 if you have any questions regarding this matter.

Sincerely,


Beth A. Oldmixon
Prosecuting Counsel

Encl: Order to Show Cause
Certificate of Service

This is an important notice. Please have it translated.

Este é um aviso importante. Queira mandá-lo traduzir.

Este es un aviso importante. Sirvase mandarlo traducir.

ĐÂY LÀ MỘT BẢN THÔNG CÁO QUAN TRỌNG
XIN VUI LÒNG CHO DỊCH LẠI THÔNG CÁO ẤY

Ceci est important. Veuillez faire traduire.

本通知很重要。请将之译成中文。

នេះគឺជាជំពូកដ៏សំខាន់ សូមមេត្តាបកប្រែជូនផង

ΠΡΟΣΟΧΗ, ΑΥΤΟ ΕΙΝΑΙ ΣΗΜΑΝΤΙΚΟ. ΠΑΡΑΚΑΛΩ ΜΕΤΑΦΡΑΣΤΕ
Questo è un 'avviso importante. Si pregadi farlo tradurre.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION IN PHARMACY

IN THE MATTER OF
KATHLEEN M. HANNIFY
PT REGISTRATION NO. 16266
REG. EXP. DATE: 04/12/2015

DOCKET NO. PHA-2014-0070

ORDER TO SHOW CAUSE

Kathleen Hannify, 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, Registration No. 16266, 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:

1. On or about January 16, 2013, the Board issued to you a pharmacy technician registration, Registration No. 16266. Your registration will expire on April 12, 2015 unless otherwise renewed.
2. From approximately June 2011 through on or about December 20, 2013, you were employed by CVS/pharmacy (CVS) as a pharmacy technician.
3. During the relevant time period, you were employed at CVS store # 1011 located at 311 Newbury Street, Danvers, Massachusetts 01923 (Danvers CVS) and CVS store # 318 located at 637 Lowell Street, Peabody, Massachusetts 01960 (Peabody CVS).
4. From approximately June 2011 through on or about December 20, 2013, while employed by CVS, you diverted approximately one hundred and eighty (180) tablets of Suboxone 8mg (Schedule III Controlled Substance).
5. From approximately June 2011 through on or about December 20, 2013, while employed at CVS, you diverted approximately one hundred and fifty (150) tablets of Buprenorphine/Naloxone 8mg (Schedule III Controlled Substance).
6. From approximately June 2011 through on or about December 20, 2013, while employed at CVS, you diverted approximately four hundred (400) tablets of Clonazepam (Schedule IV Controlled Substance).
7. From approximately June 2011 through on or about December 20, 2013, you did not have a valid prescription for the Controlled Substances listed in Paragraphs 4 through 6.

8. On or about December 20, 2013, you executed a statement in which you admitted in a signed statement to diverting from CVS the Controlled Substances listed in Paragraphs 4 through 6.
9. On or about December 20, 2013, as a result of your admission, you were terminated from your position as a pharmacy technician at CVS.
10. On or about December 16, 2013, in Salem District Court [redacted] you admitted to sufficient facts in connection with one count of Larceny of Controlled Substance. The matter was continued without a finding for two years and you were required to remain drug free, submit to random drug screens, continue substance abuse counseling, and pay restitution.
11. On or about August 24, 2012, in Milford District Court [redacted] you admitted to sufficient facts in connection with one count of Operating Under the Influence of Liquor/1st offense (OUI). The matter was continued without a finding for one year with a forty-five (45) day suspension of your driver's license and the requirement that you attend a 24D alcohol education program.
12. On or about January 15, 2002, in Lynn District Court [redacted] you appeared before the Clerk Magistrate for a hearing in relation to a criminal complaint for Concealing, Selling, or Pledging Leased or Rented Property. The matter was dismissed.
13. On or about May 31, 2001, in Lynn District Court [redacted] you were placed on six (6) months pre-trial probation in connection with one count of Obtaining a Controlled Substance by Fraud.
14. On or about November 20, 2001, in Lynn District Court [redacted] you were found in violation of probation and you admitted to sufficient facts in connection with one count of Obtaining a Controlled Substance by Fraud and the matter was continued without a finding for eighteen (18) months. You were ordered to undergo drug treatment as required by the probation department, undergo random urine screens and blood tests, remain alcohol and drug free, and remain employed or in school.
15. On or about October 16, 2001, in Chelsea District Court [redacted] a complaint issued in which you were charged with two counts of Larceny By Check Under \$250. On or about March 19, 2002, the matter was dismissed upon payment of restitution.
16. On or about December 3, 2012, you submitted to the Massachusetts Board of Registration in Pharmacy a Pharmacy Technician Application (Application).
17. In your Application you certified, under the pains and penalties of perjury, a negative response to Question Number 5 which asks "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?"

GROUND 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 license to practice as pursuant to G.L.c. 112, § 61, for deceit, malpractice, gross misconduct in the practice of the profession, or any offense against the laws of the Commonwealth relating thereto.
- C. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as pursuant to G.L.c. 94C, § 34, for conduct in violation of the Massachusetts Controlled Substances Act.
- D. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (h) for engaging in abuse or the illegal use of prescription drugs or controlled substances.
- E. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (k) for engaging in conduct that has the capacity or potential to place the public health, safety or welfare at risk.
- F. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03(n) for being convicted of any crime, entering a plea of guilty to any crime, entering a plea of nolo contendere to any crime, or admitting to sufficient facts to warrant a find of guilty of any crime.
- G. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03(o) for fraudulently procuring a license or registration or its renewal.
- H. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03(p) for providing false information on an application for a license or registration or its renewal.
- I. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03(q) for 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 representative with records, documents, information or testimony to which the Board is legally entitled.
- J. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03(aa) for 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 license, in Massachusetts or any other jurisdiction.
- K. Your conduct as alleged warrants disciplinary action by the Board against your license to practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (r) for engaging in conduct that demonstrates a lack of good moral character.
- L. Your conduct as alleged warrants disciplinary action by the Board against your license to

practice as a pharmacy technician pursuant to Board regulation 247 CMR 10.03 (u) for engaging in conduct which undermines public confidence in the integrity of the profession.

- M. 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); 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).

* * * * *

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 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 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 Beth A. Oldmixon at the following address:

Beth A. Oldmixon
Prosecuting Counsel
Department of Public Health
Office of the General Counsel
239 Causeway Street, Suite 500, 5th Floor
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) 973-0923 to schedule a time that is mutually convenient.

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

By: Beth A. Oldmixon
Beth A. Oldmixon
Prosecuting Counsel
Department of Public Health

Date: June 5, 2014

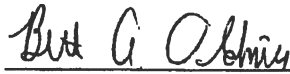
CERTIFICATE OF SERVICE

I, Beth A. Oldmixon, hereby certify that a copy of the foregoing Cover Letter, Order to Show Cause and Certificate of Service was served upon the Respondent, Kathleen M. Hannify, at the following address:

Kathleen Hannify

redact

by Certified Mail No. 7012 0470 0001 3611 8593 and by first class mail on this 5th day of June, 2014.



Beth A. Oldmixon
Prosecuting Counsel