



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

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

Tel: 617-973-0960
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TTY: 617-973-0988

www.mass.gov/dph/boards/pharmacy

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

February 25, 2015

VIA FIRST CLASS AND CERTIFIED MAIL RETURN
RECEIPT REQUESTED NO. 7012 3460 0002 3702 8993

Nicole Anne Farina

[redacted]

RE: In the Matter of Nicole Anne Farina, PT License No. 14610
Board of Registration in Pharmacy Docket No. PHA-2013-0152

Dear Ms. Farina:

Enclosed is a copy of 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. There was an error in the previous letter which stated the effective date as being 10 days from the date issued. The actual effective date was February 12, 2015. I apologize for any inconvenience this may have caused.

Sincerely,

David Sencabaugh, R. Ph.
Executive Director

Enc.

cc: Michelle Fentress, Prosecuting Counsel



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MARYLOU SUDDERS
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MONICA BHAREL, MD, MPH
Commissioner

February 12, 2015

VIA FIRST CLASS AND CERTIFIED MAIL RETURN
RECEIPT REQUESTED NO. 7012 3460 0002 3702 8931

Nicole Anne Farina

[redacted]

RE: In the Matter of Nicole Anne Farina, PT License No. 14610
Board of Registration in Pharmacy Docket No. PHA-2013-0152

Dear Ms. Farina:

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,

David Sencabaugh, R. Ph.
Executive Director

Enc.

cc: Michelle Fentress, Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of
NICOLE ANNE FARINA
PT14610
LIC. EXP. DATE 4/8/2014

PHA-2013-0152

FINAL DECISION AND ORDER BY DEFAULT

On September 29, 2014, the Board of Registration in Pharmacy ("Board") issued and duly served on Nicole Anne Farina ("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 Order.² 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] 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.

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 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 has also

¹ Pursuant to 801 CMR 1.01(6)(a).

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

³ Pursuant to 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.

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 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:

On December 15, 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 (PT14610), effective as of the date issued (see below), by the following vote: In favor: P. GANNON, E. TAGLIERI, R. TINSLEY, G. CAVANAUGH, M. GODEK, C. BASILE, K. CONLEY, and W. COX; Opposed: None; Abstain: None; Absent: None.

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

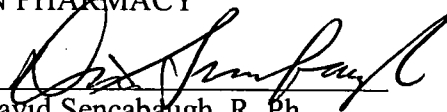
envision any terms or conditions pursuant to which the Board would consider Respondent to be qualified for licensure as a pharmacy technician in the Commonwealth in the future.

EFFECTIVE DATE OF ORDER

The Final Decision and Order by Default shall be effective as of February 12, 2015.

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: February 12, 2015

Notice to:

VIA FIRST CLASS AND CERTIFIED MAIL RETURN
RECEIPT REQUESTED NO. 7012 3460 0002 3702 8931

Nicole Anne Farina

[redacted]


BY HAND DELIVERY

Michelle Fentress, 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
239 Causeway Street, Suite 500, Boston, MA 02114

DEVAL L. PATRICK
GOVERNOR

JOHN W. POLANOWICZ
SECRETARY

CHERYL BARTLETT, RN
COMMISSIONER

Tel: 617-973-0800
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www.mass.gov/dph/boards

September 29, 2014

BY FIRST CLASS AND CERTIFIED MAIL

7012 3460 0002 3702 5725

Ms. Nicole Anne Farina

[redacted]

RE: In the Matter of Nicole Anne Farina, PT License No. 14610
Board of Registration in Pharmacy, Docket No. PHA-2013-0152

Dear Ms. Farina:

The Massachusetts Board of Registration in Pharmacy ("Board") within the Department of Public Health, Division of Health Professions Licensure ("Division"), has completed its investigation of the above-listed complaint against your license 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 license as a Pharmacy Technician (PT License No. 14610).

The Order to Show Cause and any subsequent hearing are governed by G.L. c. 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 the Commonwealth of Massachusetts, including any right to renew your registration.

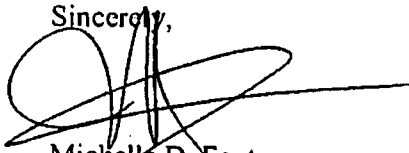
The request for a hearing and your Answer must be filed with Michelle D. Fentress, Prosecuting Counsel at the following address:

Michelle D. Fentress
Prosecuting Counsel
Department of Public Health
Office of the General Counsel
239 Causeway Street, Suite 500
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) 973-0979 if you have any questions regarding this matter.

Sincerely,



Michelle D. Fentress
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 BÀN 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。

នេះគឺជាដំណឹងល្អ 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)
NICOLE ANNE FARINA)
PT Registration No. 14610)
Registration Expired 04/08/2014)
_____)

Docket No. PHA-2013-0152

ORDER TO SHOW CAUSE

NICOLE ANNE FARINA 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. 14610 or your right to renew such registration, pursuant to G.L. c. 112, §§42A and 61, and Board regulations 247 CMR 2.00 *et seq*, based upon the following facts and allegations:

Factual Allegations

1. On or about November 2, 2011, the Board issued to you a Pharmacy Technician ("PT") registration, Registration No. 14610.
2. You were employed as a Pharmacy Technician at CVS pharmacy #1848 ("CVS") located at 264 Trapelo Road, Belmont, Massachusetts, from March 23, 2011 through September 20, 2013.
3. On or about August 16, 2013, during your shift at CVS, you placed in your pocket a merchandise credit that a CVS customer left on the counter at the pharmacy.
4. On or about August 17, 2013, you used the merchandise credit referred to in Paragraph 3, without the customer's knowledge or consent, to make purchases for your own use and benefit, at a CVS store located in Arlington, Massachusetts.
5. On September 13, 2013, while being questioned about the customer merchandise referenced in Paragraphs 3 and 4, you voluntarily informed a CVS investigator that during the course of your employment as a Pharmacy Technician for CVS, you took from CVS, on two (2) separate occasions, one (1) pack of birth control, valued at \$60 each, and left without paying for them.
6. You informed the CVS investigator that you took the birth control because you were "in the middle of [obtaining] a new insurance company."

7. You did not have a prescription for the birth control referred to in Paragraphs 5 and 6.
8. On September 13, 2013, you signed a voluntary statement, which you offered as true and to the best of your knowledge, and within the statement, you acknowledged your involvement in the conduct referred to in Paragraphs 3-6.
9. In the signed statement referred to in Paragraph 8, you further acknowledged that you had not been threatened, coerced, or promised any leniency by any agent of CVS/pharmacy to compel you to submit the statement.
10. On September 13, 2013, you signed a Promissory Note in which you acknowledged that you engaged in an "unauthorized conversion of certain property of CVS" and you agreed to make full restitution in the amount of \$160.00, payable to CVS.
11. In the Promissory Note ("Note") referred to in Paragraph 10, you further acknowledged that you entered into the Note voluntarily, without duress, and with your full knowledge and consent to its terms.

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)(e) because you engaged in misconduct in the practice of the profession.
- 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)(h) because you engaged in abuse or illegal use of prescription drugs or controlled substances.
- 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)(l) because you engaged in conduct that has the capacity or potential to deceive or defraud.
- 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)(r) because you engaged in conduct that demonstrates lack of good moral character.

- 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)(u) because you engaged in conduct which undermines public confidence in the integrity of the profession.
- 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)(v) because you committed an act that violates recognized standards of pharmacy practice.
- 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)(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*.
- 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)(x) because you violated M.G.L. c. 94C or any rules and regulations promulgated thereunder.
- K. 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).

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.

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:

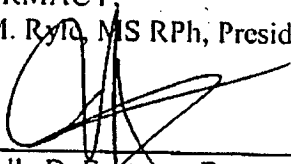
Michelle D. Fentress, Esq.
Prosecuting Counsel
Department of Public Health
Office of the General Counsel
239 Causeway Street, Suite 500
Boston, MA 02114

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. Ryle, MS RPh, President

By: _____


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

Date: September 29, 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 Respondent, Nicole Anne Farina at the following address of record with the Board:

Nicole Anne Farina

[redacted]
[redacted]

by first class mail, postage prepaid, and certified mail no. 7012 3460 0002 3702 5725

This 29th day of September, 2014.



Michelle D. Fentress, Esq.
Prosecuting Counsel