

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

BOARD OF REGISTRATION)
IN PHARMACY)
Petitioner)
)
v.)
)
RACHEL SILBER)
PT21614)
License expires 6/1/19)
Respondent)

PHA-2017-0083

FINAL DECISION AND ORDER BY DEFAULT

On October 27, 2017, the Board of Registration in Pharmacy ("Board") issued and duly served on RACHEL SILBER ("Respondent"), an Order to Show Cause ("Order")¹ relating to a complaint filed against Respondent's pharmacy technician license. The Order stated the allegations against Respondent and also notified Respondent that an Answer to the Order was to be submitted within 21 days of receipt of the Order². Further, the Order notified Respondent of her 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 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." Finally, the Order notified Respondent that:

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.

Notwithstanding the earlier filing of an Answer and/or request for a hearing, your failure to respond to notices or correspondence, your failure to appear for any scheduled status conference, pre-hearing conference or hearing dates, or your 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 the Order to Show Cause, and may revoke, suspend, or take other disciplinary action against your registration...

A copy of the Order is attached to this Final Decision and Order by Default at Exhibit A and incorporated herein by reference.

The Respondent filed an Answer to the Order on January 26, 2018.

On May 24, 2018, the Chief Administrative Magistrate, ordered both parties to participate in a telephone conference on June 15, 2018. The order stated, "if Respondent fails to appear [at her attorney's office] for the telephone conference without good cause, [the Chief Administrative Magistrate] will issue an order of default..." The May 24th order further described Respondent's lack of participation in the case, as well as the fact that Respondent's counsel had not been able to reach Respondent. A copy of the May 24, 2018 Order is attached hereto at Exhibit B and incorporated herein by reference.

Respondent failed to participate in the June 15th telephone conference as ordered. Prosecuting counsel filed a motion for default on June 18, 2018 and Respondent's counsel filed an opposition on July 5, 2017. The Chief Administrative Magistrate issued a Ruling on Prosecution's Motion for Entry of Default Judgement and for Final Decision and Order by Default and a Revised Ruling on Prosecution's Motion for Entry of Default Judgement and for Final Decision and Order by Default on July 5, 2018. The Revised Ruling on Prosecution's Motion for Entry of Default Judgement and for Final Decision and Order by Default is attached at Exhibit C and incorporated herein by reference.

The Board has afforded Respondent an opportunity for a full and fair hearing on the allegations in the Order as required by M.G.L. c. 30A, § 10, and sufficient notice of the issues involved to allow the Respondent a reasonable opportunity to prepare and present evidence and argument as required by M.G.L. c. 30A, § 11(1). Respondent, however, failed to appear for the telephone conference, as required by the Standard Rules of Adjudicatory Procedure and the order issued by the Chief Administrative Magistrate.

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. The Respondent has waived her right to be heard. In accordance with the Board's authority and statutory mandate, the Board orders as follows:

ORDER

On September 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, PT21614, effective ten days from the Date Issued, by the following vote:

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

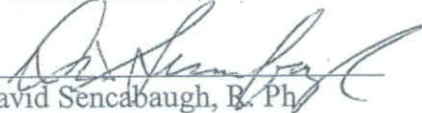
EFFECTIVE DATE OF ORDER

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

Date Issued: 9/13/2018

Notice to:

BY FIRST CLASS MAIL AND CERTIFIED MAIL NO. 7017 0530 0000 0551 8635,
RETURN RECEIPT REQUESTED

Richard Camann
Camann & Callahan
328 Broadway – Suites 211/213
Lynn, MA 01904

BY HAND

Eugene Langner
Prosecuting Counsel
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