

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Professions Licensure
Board of Registration in Pharmacy
239 Causeway St., 5th Floor, Suite 500
Boston, MA 02114

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

Tel: 617-973-0960

FAX: 617-973-0980

TTY: 617-973-0988

www.mass.gov/dph/boards/pharmacy

December 10, 2020

Via First Class & Certified Mail No. 7020 1810 0002 3137 5419,
Return Receipt Requested

Samantha Marcoux
392 Ocean Grove Ave.
Swansea, MA 02777

Via First Class & Certified Mail No. 7016 1370 0001 4117 3925,
Return Receipt Requested

Samantha Marcoux
165 Columbus Drive
Fall River, MA 02720

RE: In the Matter of Samantha Marcoux, Docket No. PHA-2019-0099
License No. PT16890

Dear Ms. Marcoux:

Please find enclosed the **Final Decision and Order by Default** issued by the Board of Registration in Pharmacy on December 10, 2020 and effective **December 20, 2020**. This constitutes full and final disposition of the above-referenced complaint, as well as the final agency action of the Board. **Your appeal rights are noted on page 3.**

Please note that as of the effective date, your license status will change to **Revoked; Expired**. It will remain in this status until the Board notifies you of a change in license status in accordance with the terms of the order.

Please direct all questions, correspondence and documentation relating to licensure reinstatement to the attention of Lisa Ferguson at the address above. You may also contact Ms. Ferguson at (617) 973 – 0950.

You may contact Heather Engman, Esq., Board Counsel at (617) 973 – 0950 with any questions that you may have concerning this matter.

Sincerely,

 Lisa Ferguson for

David Sencabaugh, R. Ph.
Executive Director,
Board of Registration in Pharmacy

Encl.

cc: Patricia Blackburn, Esq., Prosecuting Counsel

SUFFOLK COUNTY

Board of Registration in Pharmacy
Petitioner

V.

SAMANTHA E. MARCOUX

Lic. No. PT16890

Expired 01/14/20

Docket No. PHA-2019-0099

On August 10, 2020, the Board of Registration in Pharmacy (“Board”) issued and duly served on Samantha E. Marcoux (“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 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

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.

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 25, 2020, 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, PT16890, effective ten days from the Date Issued, by the following vote:

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

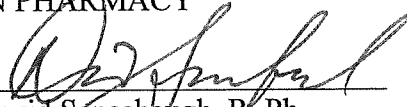
EFFECTIVE DATE OF ORDER

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: 12/10/2020

Notice to:

BY FIRST CLASS & CERTIFIED MAIL NO. 7020 1810 0002 3137 5419
RETURN RECEIPT REQUESTED

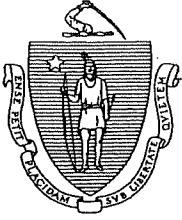
Samantha Marcoux
392 Ocean Grove Ave
Swansea, MA 02777

Samantha Marcoux
165 Columbus Drive
Fall River, MA 02720

7016 1370 0001 4117 3925

BY HAND

Patricia Blackburn
Prosecuting Counsel
Massachusetts Department of Public Health
Office of the General Counsel
250 Washington Street
Boston, MA 02108



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

Tel: 617-624-6000
www.mass.gov/dph

August 10, 2020

BY CERTIFIED MAIL & FIRST-CLASS MAIL

Certified Mail No. 7019 0140 0000 7220 4881
Samantha E. Marcoux
392 Ocean Grove Ave.
Swansea, MA 02777

Certified Mail No. 7019 0140 0000 7220 4898
Samantha E. Marcoux
165 Columbus Drive
Fall River, MA 02720

Re: *Board of Registration in Pharmacy v. Samantha E. Marcoux*
License No. PT16890
Board of Registration Pharmacy, Docket No. PHA-2019-0099

Dear Ms. Marcoux:

For the reasons set forth in the attached Order to Show Cause, the Board of Registration in Pharmacy (Board) is proposing to suspend, revoke or impose other discipline against your license to practice as a licensed pharmacy technician (License No. PT16890), and your right to renew said license.

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 license 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 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, Massachusetts 02108-4619

If you are represented by an attorney in this matter, all communications should be made through your attorney. You or your attorney may contact me at (617) 624-5237 and/or patricia.blackburn@state.ma.us if you have any questions regarding this matter.

Sincerely,



Patricia M. Blackburn
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。

នេះគឺជាជំនាញសំខាន់ 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

Board of Registration in Pharmacy)

Petitioner)

v.)

SAMANTHA E. MARCOUX)

Lic. No. PT16890)

Expired 01/14/20)

Docket No. PHA-2019-0099

ORDER TO SHOW CAUSE

SAMANTHA E. MARCOUX, 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 pharmacy technician in the Commonwealth of Massachusetts, License No. PT16890, 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, *et seq.*, based upon the following facts and allegations:

1. On or about July 9, 2013, the Board issued you a license to practice as a pharmacy technician in the Commonwealth of Massachusetts, License No. PT16890. Your license expired on January 14, 2020.
2. At all times relevant to the allegations contained herein, you were employed in your capacity as a pharmacy technician at CVS Pharmacy #237 located in Somerset, MA (CVS).
3. From on or about January 2019 through September 2019, while employed in your capacity as a pharmacy technician at CVS, you diverted numerous controlled substances from CVS, to wit, acetaminophen/codeine 30mg (acetaminophen/codeine #3, a Schedule III Controlled Substance), acetaminophen/codeine 60mg (acetaminophen/codeine #4, a Schedule III Controlled Substance), butalbital/acetaminophen/caffeine 50/325/40mg (a Schedule III Controlled Substance), as well as Imitrex 100mg.
4. From on or about January 2019 through September 2019, when you diverted the controlled substances from CVS referenced in the immediately preceding paragraph, you did not obtain these drugs pursuant to the filling of a valid prescription or order in your name.

5. On or about September 24, 2019, you admitted to diverting controlled substances referenced above in paragraph 3 while speaking with CVS staff and police officer(s) from the Somerset Police Department.
6. On or about September 24, 2019, in a written document entitled "Defendant Voluntary Statement" you provided a signed statement to the Somerset Police Department wherein you admitted that you had: "taken drugs from [CVS]," apologized for this conduct, and expressed embarrassment for making a poor choice.
7. On or about September 24, 2019, in a CVS Loss Prevention Statement signed by you, you identified yourself as an "Inventory Specialist" at CVS for seven (7) years and answered questions in the affirmative where, in summary, you admitted that you began diverting controlled substances from CVS approximately nine (9) months prior, and described how you accomplished this diversion.
8. On or about November 25, 2019, you were arraigned in Fall River District Court, Criminal Docket No. 1932CR004573, on two (2) felony counts of Larceny of a Drug, in violation of G.L. c. 94C, § 37, and two (2) misdemeanor counts of Larceny of a Drug Under \$1200, in violation of G.L. c. 266, § 30C; currently, the next scheduled date in this matter is November 20, 2020.

Grounds for Discipline

Your conduct as alleged above, as well as other evidence that may be adduced at hearing, is a violation of G.L. c. 94C, § 34 and Board Regulation 247 CMR 10.03(1)(h) and (x), and warrants disciplinary action by the Board, pursuant to:

- A. 247 CMR 10.03(1)(h) for engaging in abuse or illegal use of prescription drugs or controlled substances;
- B. 247 CMR 10.03(1)(x) for violation of G.L. c. 94C or any rules or regulations promulgated thereunder;
- C. G.L. c. 112, § 61 for deceit, malpractice, gross misconduct in the practice of the profession, or for any offense against the laws of the Commonwealth relating thereto.
- D. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); *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) for unprofessional conduct and conduct which undermines public confidence in the integrity of the profession.

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 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 ordered by the Presiding Officer." Those terms may include a requirement that any copy of the transcript produced must be sent immediately 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 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 herein and on any Board disciplinary action. 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 captioned matter.

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 this Order to Show Cause, and may revoke, suspend, or take other disciplinary action against your license to practice as a pharmacy technician 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:

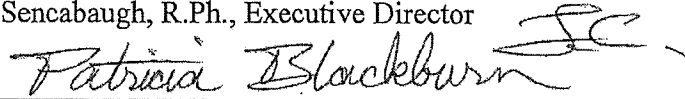
Patricia M. Blackburn, Esq.
Prosecuting Counsel
Department of Public Health
Office of the General Counsel, 2nd Floor
250 Washington Street
Boston, MA 02108-4619

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 Prosecuting Counsel. If you elect to undertake such an examination, then please contact Prosecuting Counsel in advance at (617) 624-5237 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION IN PHARMACY

David Sencabaugh, R.Ph., Executive Director

By:



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

August 10, 2020

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order to Show Cause, with accompanying cover letter and Certificate of Service, was served upon the Respondent Samantha E. Marcoux at her address of record with the Board:

392 Ocean Grove Ave.
Swansea, MA 02777

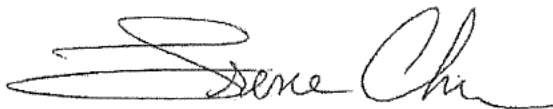
by first class mail, postage prepaid, and by Certified Mail No. 7019 0140 0000 7220 4881

and at: 165 Columbus Drive
Fall River, MA 02720

by first class mail, postage prepaid, and by Certified Mail No. 7019 0140 0000 7220 4898

as well as by email at: [REDACTED]

this 10th day of August, 2020.

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

Irene Chu
For Patricia M. Blackburn
Prosecuting Counsel