



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

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

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www.mass.gov/dph/boards/pharmacy

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

November 8, 2016

Sent Via First Class & Certified Mail No. 7016 0340 0000 4975 9346

Shelly Rando

[redacted]

RE: Shelly Rando; PT692; PHA-2012-0079

FINAL NOTICE: SUSPENSION

Dear Ms. Rando:

On August 22, 2014, you entered into a Consent Agreement for Probation ("Agreement") with the Board of Registration in Pharmacy ("Board"). The Agreement obligates you to comply with specified licensure conditions during the period of time while your license is on probation. On August 10, 2015, the Board issued a Final Decision and Order on Compliance with Licensure Conditions. A copy of the Agreement and Final Decision and Order are enclosed with this letter for your review.

On October 25, 2016, I sent you a Notice of Violation and Intent to Suspend ("Notice"). A copy of the Notice is enclosed with this letter. The Notice informed you that you are in violation of the Agreement and listed the facts supporting the determination that you are in violation. The Notice also informed you that the Board authorized me to suspend your license. The Notice informed you that you had a right to a hearing on the limited issue of whether you are in compliance with, or in violation of, the terms of the Agreement. Lastly, the Notice informed you that to claim your right to a hearing, you needed to submit a written statement of facts and request for a hearing within seven days.

As of the date of this letter, Board Counsel has not received from you a written statement of facts and request for a hearing. Accordingly, you have waived your right to a hearing.

Effective today, November 8, 2016, pursuant to Paragraph 11 of the Agreement, the Board **SUSPENDS your license to practice as a pharmacy technician. You may not practice as a pharmacy technician in Massachusetts until the Board provides you written notice that it has reinstated your license.**

This notice constitutes a final agency action. You are hereby notified that you have a right to appeal this *Final Notice: Suspension* within thirty (30) days of your receipt of this notice, either to the Superior Court for Suffolk County or the county where you reside pursuant to M.G.L. c. 30A, § 14, or to the Supreme Judicial Court pursuant to M.G.L. c. 112, § 64.

Sincerely,



David Sencabaugh, R.Ph.
Executive Director

cc: Robert Loventhal
15 Hammersmith Road, Unit 13
Newport, RI 02840

Karen Fishman, Probation Monitor



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MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

October 25, 2016

Sent Via First Class & Certified Mail No. 7016 0340 0000 4975 9155,
Return Receipt Requested

Shelly Rando

[redacted]

RE: Shelly Rando; PT692; PHA-2012-0079

NOTICE OF VIOLATION AND INTENT TO SUSPEND

Dear Ms. Rando:

On August 22, 2014, you entered into a Consent Agreement for Probation ("Agreement") with the Board of Registration in Pharmacy ("Board"). The Agreement obligates you to comply with specified licensure conditions during the period of time while your license is on probation. On August 10, 2015, the Board issued a Final Decision and Order on Compliance with Licensure Conditions. A copy of the Agreement and the Final Decision and Order are enclosed with this letter for your review.

You are in violation of the Agreement and the August 10, 2015 Order. On or about February 9, 2016, Karen Fishman sent you a Notice of Violation and Opportunity to Cure, a copy of which is also enclosed. You did not cure the violation to the Board's satisfaction in the manner prescribed in that notice. Under Paragraph 11 of the Agreement, the Board may suspend your license in the event that you violate any provision of the Agreement. On May 3, 2016, the Board voted to issue this Notice of Violation and Intent to Suspend.

The basis for the contention that you are in violation of the Agreement are as follows:

1. During the Probationary Period, you were required to refrain from using any controlled substance described in Appendix A. In the event you were prescribed a controlled substance, you were required to notify the Board within five (5) days and arrange for the prescriber to submit directly to the Board a written statement of the kind and amount of

each controlled substance prescribed and the medical necessity for each such prescription.

2. During the Probationary Period, you were required to maintain enrollment with First Lab and contact First Lab seven days per week. You were also required to undergo, according to the terms set forth in Attachment A, random, supervised urine tests at least six (6) times per year.


Evidence indicates that you failed two random urine tests on December 29, 2015 and January 21, 2016. Additionally, evidence indicates that you failed to contact First Lab on the following dates: December 25, 2015; January 3, 2016; February 10, 2016; March 13, 2016; and April 2, 2016 – May 3, 2016.

You have a right to a hearing on the limited issue of whether you are in compliance with, or in violation of, the terms of the Agreement. You may claim your right to a hearing by submitting a written statement to the Board within 7 days of receipt of this letter. Your written statement must include specific facts which support the determination that you are in compliance, and not in violation, with the provisions of the agreement identified above. Your written statement must also include a request for a hearing. Please send your written statement to:

Heather A. Engman
Board Counsel
Board of Registration in Pharmacy
239 Causeway Street
Boston, MA 02114

Your failure to submit a written statement of facts and request for a hearing within 7 days shall constitute a waiver of your right to a hearing on the issue of your violation of the Agreement.

Sincerely,


David Sencabaugh, R. Ph.
Executive Director

cc: Via First Class & Certified Mail No. 7016 0340 0000 4975 9162,

Return Receipt Request

Robert Loventhal
15 Hammersmith Road, Unit 13
Newport, RI 02840

Karen Fishman, Probation Monitor

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Shelly Rando)
License No. PT692)
_____)

PHA-2012-0079

**FINAL DECISION AND ORDER
ON COMPLIANCE WITH LICENSURE CONDITIONS**

I. PROCEEDINGS

On April 23, 2015, the Board of Registration in Pharmacy ("Board") issued and duly served on Shelly Rando ("Respondent") a *Notice of Violation and Modification of Licensure Conditions* related to the *Consent Agreement for Probation ("Agreement")* entered into by the Board and the Respondent, effective August 22, 2014. In addition to stating the alleged violations, the *Notice of Violation and Further Discipline* notified the Respondent of her opportunity for a hearing on issue of her compliance with the probation terms of the Agreement. The Agreement is attached hereto.

On July 24, 2015, the Board issued a *Hearing Notice* to the Respondent advising that a hearing would be held before the full Board on August 4, 2015. The *Hearing Notice* provided the Respondent with a list of documents that the Board would consider during such hearing. The *Hearing Notice* also notified the Respondent of her opportunity to submit documents and present witnesses that are relevant to the issue of her compliance.

On August 4, 2015, the Board held a hearing and received evidence on the issue of compliance with licensure conditions during the executive session of its regularly scheduled meeting. The Respondent participated by telephone and her attorney attended in person. At the hearing, Board Counsel Heather Engman presented evidence in support of the allegations that the Respondent has not complied with the Agreement. Counsel also presented a recommendation for Board Findings and Action. Following the receipt of evidence, the Board voted to modify the terms of probation.

Shelly Rando
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PHA-2012-0079

At the hearing, the Board received the following documents into evidence:

1. Consent Agreement for Probation and Cover Letter;
2. Letter from Scott Sherman to Shelly Rando, dated February 13, 2015;
3. Detailed Test History Reports;
4. Participant Calendar, February 2015 – July 2015;
5. Participant Progress Notes;
6. Lab Report pertaining to February 6, 2015 urine screen;
7. Lab Report pertaining to June 17, 2015 urine screen;
8. Lab Report pertaining to July 6, 2015 urine screen; and
9. Email and attachment from Attorney Loventhal to Scott Sherman, dated April 7, 2015.

At the hearing, the Board heard from Board Counsel who asserted the following:

1. Per Paragraph 7 of the Agreement, the Respondent was required to notify the Board within five (5) days if she was prescribed a controlled substance and arrange for the prescriber to submit directly to the Board a written statement describing the medical necessity for each such prescription.
2. On February 6, 2015, June 17, 2015, and July 6, 2015, Respondent's urine screens were positive for benzodiazepines.
3. Respondent failed to arrange for her prescriber to submit a written statement of the kind and amount of each controlled substance prescribed and the medical necessity for each such prescription. The Board did not receive any documentation from Respondent's prescriber.
4. On June 17, 2015 and July 6, 2015, Respondent's urine screens were positive for ethyl glucuronide.
5. Respondent failed to contact Frist Lab on numerous occasions.

At the hearing, the Board heard from the Respondent who asserted the following:

1. Respondent testified that she had difficulty finding and registering with a testing center.
2. Respondent testified that she did not know she was required to contact First Lab on the weekends.

Shelly Rando
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3. Respondent testified that the recent illness and death of her husband and recent death of her father in law affected her ability to contact First Lab every day and asked the Board to consider her losses as mitigating circumstances.

II. FINDINGS

After deliberation the Board makes the following findings:

1. The Respondent violated the Agreement by failing to comply with Paragraph 7.
2. With respect to Paragraph 7, the Board noted Respondent's urine screens were positive for benzodiazepines and there was no evidence that Respondent or her prescriber submitted a written statement of the kind and amount of each controlled substance prescribed and the medical necessity for each such prescription.

III. ORDER

The Board orders that Respondent's license to practice as a pharmacy technician shall remain on probation until August 22, 2017 ("Probationary Period") and until such time as the Respondent petitions the Board to terminate the Probationary Period.

1. During the Probationary Period, the Respondent shall refrain from using any controlled substance described in Appendix A. In the event Respondent is prescribed a controlled substance, the Respondent shall notify the Board within five (5) days and shall arrange for the prescriber to submit directly to the Board a written statement of the kind and amount of each controlled substance prescribed and the medical necessity for each such prescription.
2. During the Probationary Period, the Respondent shall maintain her enrollment with First Lab and shall contact First Lab seven days per week. Respondent shall undergo, according to the terms set forth in Attachment A, random, supervised urine tests at least six (6) times per year.
3. Except as modified by this *Final Decision and Order on Compliance with Licensure Conditions*, all remaining provisions of the Agreement remain in full force and effect.

Shelly Rando
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PHA-2012-0079

The Board voted to issue this *Final Decision and Order on Compliance with Licensure Conditions*, by the following vote:

In favor: Patrick Gannon
Ed Taglieri
Timothy Fensky
Michael Godek
Garret Cavanaugh
Catherine Basile
Karen Conley
William Cox
Richard Tinsley
Andrew Stein
Phillippe Bouvier

Opposed: None

Abstained: None

Absent: None

Recused: Susan Cornacchio

IV. EFFECTIVE DATE OF ORDER

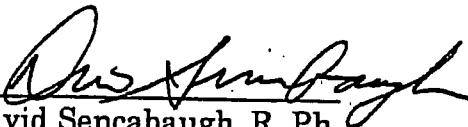
This *Final Decision and Order on Compliance with Licensure Conditions* becomes effective upon the tenth (10th) day from the date it is issued (see "Date Issued" below).

V. RIGHT TO APPEAL

Respondent is hereby notified that this *Final Decision and Order on Compliance with Licensure Conditions* constitutes a final agency action. Respondent is hereby notified that she has a right to appeal this action within thirty (30) days of your receipt of this notice, to the Superior Court for Suffolk County or the county where you reside pursuant to M.G.L. c. 30A, § 14.

Board of Registration in Pharmacy

Date Issued: 8-10-15


David Sencabaugh, R. Ph.
Executive Director

Notified:

VIA FIRST CLASS AND CERTIFIED MAIL RETURN
RECEIPT REQUESTED NO.

Robert D. Loventhal
15 Hammersmith Road
Unit 3
Newport, RI 02840

Shelly Rando
PT692
PHA-2012-0079

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Shelly A. Rando)
PH - PT License No. 692)
License Expiration Date 7/29/12)
_____)

Docket No. PHA-2012-0079

CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Pharmacy ("Board") and Shelly A. Rando ("Licensee"), Pharmacy Technician License No. 692, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board.

1. The Licensee acknowledges that a complaint has been opened by the Board against her Massachusetts Pharmacy Technician license related to the conduct set forth in Paragraph 2, identified as complaint, PHA-2012-0079.¹
2. The Board and Licensee acknowledge and agree that while she was employed as a Pharmacy Technician at CVS Pharmacy #604, located at 199 Sudbury Road in Concord, Massachusetts, she diverted a bottle of Butalbital, a Schedule VI controlled substance for personal use.
3. On December 3, 2012, the Licensee was placed on pre-trial probation by the Concord District Court until May 31, 2013, which required the Licensee to have random drug tests. The Licensee completed her pre-trial probation successfully and the matter was closed.
4. On May 17, 2012, the Board issued a Temporary Order of Summary Suspension of your Pharmacy Technician license. You failed to timely request a hearing on the necessity of a continuance of the Temporary Order of Summary Suspension and a Final Order of Summary Suspension was issued on or about May 24, 2012.

¹ The term "license" applies to both a current license and the right to renew an expired license.

5. On January 7, 2014, in final resolution of this matter, the Board ordered and Licensee agrees that her Pharmacy Technician license shall be placed on **PROBATION** for three years ("Probationary Period"), commencing with the date on which the Board signs this Agreement ("Effective Date").
6. The Licensee agrees to have submitted directly to the Board, according to the terms set forth in Attachment A, the results of random supervised urine tests collected from the Licensee no less than six (6) times per year during the Probationary Period, all of which are required to be negative.
7. If prescribed any controlled substance during the Probationary Period, the Licensee agrees to notify the Board within five (5) days and arrange for the prescriber to submit directly to the Board a written statement of the kind and amount of each controlled substance prescribed, and the medical necessity for each such prescription.
8. During the Probationary Period, the Licensee agrees that she shall comply in all material respects with all laws and regulations governing the practice of pharmacy and the United States Pharmacopeia.
9. The Board agrees that in return for Licensee's execution and successful compliance with the requirements of this Agreement, it will not prosecute the complaint, PHA-2012-0079.
10. If the Licensee has complied to the Board's satisfaction with all the requirements contained in this Agreement, the Probationary Period will terminate three years after the Effective Date upon written notice to the Licensee from the Board².
11. If the Licensee does not materially comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint³ during the Probationary Period, the Licensee agrees to the following:
- a. The Board may upon written notice to the Licensee, as warranted to protect the public health, safety, or welfare:
 - i. **EXTEND** the Probationary Period; and/or
 - ii. **MODIFY** the Probation Agreement requirements; and/or

² In all instances where this Agreement specifies written notice to the Licensee from the Board, such notice shall be sent to the Licensee's address of record.

³ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date concerning acts, omissions, or events occurring after the Effective Date, which (1) alleges that the Licensee engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Licensee shall have an opportunity to respond.

- iii. **IMMEDIATELY SUSPEND** the Licensee's Pharmacy Technician license.
 - b. If the Board suspends the Licensee's Pharmacy Technician license pursuant to Paragraph 9(a)(iii), the suspension shall remain in effect until:
 - i. the Board provides Licensee written notice that the Probationary Period is to be resumed and under what terms; or
 - ii. the Board and Licensee sign a subsequent agreement; or
 - iii. the Board issues a written final decision and order following adjudication of the allegations (1) of noncompliance with this Agreement, and/ or (2) contained in the Subsequent Complaint.
- 12. The Licensee agrees that if the Board suspends her Pharmacy Technician license in accordance with Paragraph 9(a)(iii), she will immediately return her current Massachusetts Pharmacy Technician license to the Board, by hand or certified mail. The Licensee further agrees that upon said suspension, she will no longer be authorized to practice as a Pharmacy Technician in the Commonwealth of Massachusetts and shall not in any way represent herself as a Pharmacy Technician until such time as the Board reinstates her Pharmacy Technician license or right to renew such license.
- 13. The Licensee understands that she has a right to formal adjudicatory hearing concerning the complaint, PHA-2012-0079, and that during said adjudication she would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations, to present oral argument, to appeal to the courts, and all other rights set forth in the Massachusetts Administrative Procedures Act, M.G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 et seq. The Licensee further understands that by executing this Agreement she is knowingly and voluntarily waiving her right to a formal adjudication of the complaint, PHA-2012-0079.
- 14. The Licensee acknowledges that she has been represented by legal counsel in connection with the Complaint PHA-2012-0079 and this Agreement.
- 15. The Licensee acknowledges that after the Effective Date, the Agreement constitutes a public record of disciplinary action by the Board. The Board may forward a copy of this Agreement to other licensing boards, law enforcement entities, and other individuals or entities as required or permitted by law.

16. The Licensee certifies that she has read this Agreement. The Licensee
final understands and agrees that entering into this Agreement is a voluntary and
act and not subject to reconsideration, appeal or judicial review.

Witness (sign and date)

Shelly Bonds 8/21/14
Licensee (sign and date)

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

August 22, 2014
Effective Date of Probation Agreement

Fully Signed Agreement Sent to Licensee on August 26, 2014 by
Certified Mail No. 7014-0510-0001-0374-45963.

ATTACHMENT A

1. Pursuant to paragraph 6 of the Agreement, the random supervised urine tests shall include, but are not limited to, each of the following substances:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Buprenorphine
- Cannabinoids
- Cocaine (metabolite)
- Opiates:
- Codeine
- Morphine
- Hydromorphone
- Hydrocodone
- Oxycodone
- Phencyclidine
- Methadone
- Propoxyphene
- Meperidine
- Tramadol
- Suboxone

2. It is the Licensee's responsibility to ensure compliance with Paragraph 6 of the Agreement.