

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

_____)
 Board of Registration in Pharmacy,)
 Petitioner,)
)
 v.)
)
 Tamiko D. Byrd)
 License No. PT20911)
 License Expires 05/24/2019)
 Respondent)
 _____)

Docket No. PHA-2017-0203

FINAL DECISION AND ORDER BY DEFAULT

On November 19, 2018, the Board of Registration in Pharmacy (“Board”) issued and duly served on Tamiko D. Byrd (“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 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.” Copies 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, 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.

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the Show Cause Order are attached to this Final Decision and Order by Default at Exhibit A and are incorporated herein by reference.

Respondent submitted an undated response to the Show Cause Order, attached hereto at Exhibit B. On December 27, 2018, the Chief Administrative Magistrate issued an Order, attached hereto at Exhibit C, requiring Respondent and Prosecuting Counsel to participate in a telephone conference on January 9, 2019. The Order explicitly stated: “[b]oth sides must comply with this Order. If Respondent does not, Respondent should be expected to be defaulted...”

Respondent failed to participate in the telephone conference on January 9, 2019. As a result, the Administrative Magistrate issued an Entry of Default Against Respondent on January 22, 2019, attached hereto at Exhibit D.

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).

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 Show Cause Order 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 February 7, 2019, 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, PT20911, effective ten days from the Date Issued, by the following vote:

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

2-14-2019

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Notice to:

BY FIRST CLASS & CERTIFIED MAIL NO. 7017 2620 0000 0142 0549
RETURN RECEIPT REQUESTED

Tamiko Byrd
14 Minot Street
Stoneham, MA 02180

BY HAND

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

Cc : Jodi Greenburg
Chief Prosecuting Counsel

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