

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of THOMAS R. COOK)
PH-PT Reg. No. 5869)
License Expiration Date 08/11/08)

Docket No. PH-07-066

FINAL DECISION AND ORDER BY DEFAULT

On February 29, 2008, pursuant to 801 CMR 1.01(6)(a), the Board of Registration in Pharmacy ("Board") issued and duly served on Thomas R. Cook ("Respondent") an Order to Show Cause ("Show Cause Order") related to a complaint filed regarding Respondent's registration as a pharmacy technician. 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 in accordance with 801 CMR 1.01(6)(d)(2); of the right to request a hearing on the allegations pursuant to M.G.L. c. 112, s. 61; and that any hearing request ("Request for Hearing") was to be submitted within 21 days of receipt of the Show Cause Order and that failure to do so would constitute a waiver of the right to a hearing. Respondent was further notified that failure to submit an Answer within 21 days of receipt of the Show Cause Order "*shall result in the entry of default* in the 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 registration." A copy of the Show Cause Order is attached to this Final Decision and Order by Default and is incorporated herein by reference.

On March 26, 2008, Prosecuting Counsel sent notice to Respondent to file an Answer and a Request for Hearing by April 4, 2008. The notice again advised Respondent that if defaulted, the Board may enter a Final Decision and Order that assumes the truth of the allegations stated in the Show Cause Order and impose discipline on Respondent's registration, including discipline on any right to renew.

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, subsection (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 receipt and of the consequences of failing to file an Answer or otherwise respond.

As authorized by M.G.L. c. 30A, §§ 10, subsection (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

The Board voted to issue this Final Decision and Order by Default and REVOKE the Respondent's Pharmacy technician registration on April 15, 2008 by the following vote: In favor: Sophia Pasedis, R.Ph., Pharm.D., President; Michael Tocco, R.Ph.; Kathy J. Fabiszewski, Ph.D., N.P., Marilyn M. Barron, MSW, Public Member, Steven Budish, Public Member; Karen Ryle, R.Ph., President Elect; Joanne M. Trifone, R.Ph.; William A. Gouveia, R.Ph., M.S., George A. Cayer, R.Ph. and Donald D. Accetta, M.D.
Opposed: None. Absent: James T. DeVita, R.Ph.

EFFECTIVE DATE OF ORDER

This Final Decision and Order by Default becomes effective upon the date it is issued (see "Date Issued" below). Respondent is ORDERED to deliver Respondent's wallet registration card to the Board at 239 Causeway St., Suite 200, Boston, MA 02114 by April 29, 2008.

RIGHT TO APPEAL

Respondent is hereby notified of the right to appeal this Final Decision and Order by Default within thirty (30) days of receipt of notice of this Final Decision pursuant to G.L. c. 112, § 64.

BOARD OF REGISTRATION
IN PHARMACY



Sophia Pasedis, R.Ph., Pharm.D.
President

Date Issued: April 15, 2008

Attachment: Order to Show Cause dated February 29, 2008

Notified:

First Class Mail and Certified Mail/Receipt No. 7007 3020 0000 4345 1101

Dec. No. 1707

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
THOMAS R. COOK)
PH - PT Registration No. 5869)
Registration Expires 08/11/2008)
_____)

Docket No. PH-07-066

ORDER TO SHOW CAUSE

Thomas R. Cook, 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 registration to practice as a Pharmacy Technician in the Commonwealth of Massachusetts, Registration No. 5869, or your right to renew your registration pursuant to Massachusetts General Laws (G.L.) Chapter 112, §§ 42A and 61, and Board regulations at 247 CMR 2.00 et seq. based upon the following facts and allegations:

1. On or about October 1, 2004, the Board issued to you a registration to practice as a Pharmacy Technician. Your registration is current and due to expire on August 11, 2008, unless renewed.
2. In December of 2006, you were employed as a Pharmacy Technician by Brooks Pharmacy #742, Duxbury Plaza, Depot Street, Duxbury, MA.
3. On or about December 5, 2006, you were observed on a video surveillance system by the Brooks Pharmacy Loss Prevention Specialist removing the controlled substance Hydrocodone/APAP from the pharmacy supply. You removed the medication from the pharmacy supply without authorization from your employer and without a valid prescription. You took the Hydrocodone/APAP for your own personal use.
4. On or about December 8, 2006, you were interviewed by the Brooks Pharmacy Loss Prevention Specialist in the manager's office at the Brooks Pharmacy #742, Duxbury, MA. During the interview, you admitted to the theft of the controlled substance, Hydrocodone/APAP, from the pharmacy. Specifically, you admitted to stealing 1200 tablets of Hydrocodone/APAP -- 10/325 mg. tablets from the Brooks Pharmacy #742 beginning around December of 2005 and continuing up to December of 2006 when you were caught.

5. On or about December 8, 2006, you wrote a statement admitting to the theft of the 1200 Hydrocodone/APAP – 10/325 mg. tablets from the Brooks Pharmacy #742. In your statement, you wrote that you started taking some pills every now and then for your [REDACTED] Redacted
Redacted
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6. After the interview on December 8, 2006 with the Loss Prevention Specialist, you were placed on suspension by Brooks Pharmacy pending a review of the facts of the case. On or about December 15, 2006, you were terminated from your employment with Brooks Pharmacy for theft of the Hydrocodone/APAP.
7. On or about January 1, 2007, you were arraigned in the Plymouth District Court, Department of the Trial Court of the Commonwealth of Massachusetts, Docket No. [REDACTED], on two counts of Drug Possession of a Class B Substance in violation of G.L. c. 94C, §34, and two counts of Drug Larceny in violation of G.L. c. 94C, §37. These matters have not been resolved yet and are still open cases pending against you in Plymouth District Court.
8. 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, §61, for deceit, malpractice, and gross misconduct in the practice of the profession, or for any offense against the laws of the Commonwealth relating thereto.
9. Your conduct as alleged demonstrates a lack of the good moral character required for registration as a Pharmacy Technician in the Commonwealth pursuant to Board regulation 247 CMR 8.02(1)(a)3.
10. Your conduct as alleged constitutes unprofessional conduct and conduct which undermines public confidence in the integrity of the profession. *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).

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 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. 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.

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 Registered Pharmacy Technician in the Commonwealth of Massachusetts, including any right to renew your registration.

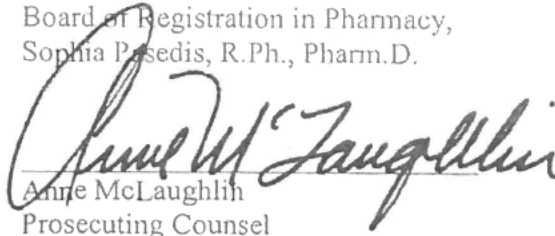
Your Answer to the Order to Show Cause and your written request for a hearing must be filed with Anne McLaughlin, Prosecuting Counsel, at the following address:

Anne McLaughlin, Esq.
Prosecuting Counsel
Department of Public Health
Office of the General Counsel
239 Causeway Street, 4th Floor
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 Prosecuting Counsel. If you elect to undertake such an examination, please contact the Prosecuting Counsel in advance at (617) 973-0840 to schedule a time that is mutually convenient.

Board of Registration in Pharmacy,
Sophia Pasedis, R.Ph., Pharm.D.

By:


Anne McLaughlin
Prosecuting Counsel
Department of Public Health

Dated: February 29, 2008