

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of **Trevor Robinson**)
PH-PT Reg. No. 3101)
License Expiration Date 05/31/09)

Docket No. PH-PT-08-079

FINAL DECISION AND ORDER BY DEFAULT

On May 9, 2008 and again on June 2, 2008 to a second address (after U.S.P.S. notification of new address), pursuant to 801 CMR 1.01(6)(a), the Board of Registration in Pharmacy ("Board") issued and duly served on Trevor Robinson ("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 June 26, 2008, Prosecuting Counsel sent notice to Respondent to file an Answer and a Request for Hearing by July 3, 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.

IDA No 1801

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 July 15, 2008 by the following vote: In favor: Sophia Pasedis, R.Ph., Pharm.D., Pres.; George A. Cayer, R.Ph.; Kathy J. Fabiszewski, Ph.D., N.P.; Marilyn M. Barron, MSW, Public Member; Stanley B. Walczyk, R.Ph., Donald D. Accetta, M.D., Absent: William A. Gouveia, R.Ph., M.S., Joanne Trifone, R.Ph., Steven Budish, Public Member and James T. DeVita, R.Ph.
Opposed: None. Abstained: None.
Recused: Michael Tocco, 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).

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, Pharm.D., R.Ph.
President

Date Issued: July 15, 2008

Notified:

BY FIRST CLASS AND CERTIFIED MAIL RETURN
RECEIPT REQUESTED NO. 7007 3020 0000 4345 4300

Dec. No. 1801

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Trevor Robinson)
PH-PT Registration No. 3101)
Registration Expires 5/1/09)
_____)

Docket No. PH-PT-08-079

ORDER TO SHOW CAUSE

Trevor Robinson, 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, PH-PT Registration No. 3101, or your right to renew such registration, pursuant to Massachusetts General Laws (G.L.) chapter 112, § 61 and Board regulation 247 CMR 9.00, based upon the following facts and allegations:

1. On or about January 7, 2003, the Board issued you a registration to practice as a pharmacy technician in the Commonwealth of Massachusetts, PH-PT Registration No. 3101. Your registration is current and expires on May 1, 2009, unless renewed.
2. On or about February 14, 2008, you acknowledged having stolen numerous controlled substances from your employer, CVS #707, 500 Grafton Street, Worcester, Massachusetts, between approximately June of 2007 and February of 2008.
3. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as a pharmacy technician pursuant to 247 CMR 9.00, for violation of the Code of Professional Conduct and Professional Standards for Registered Pharmacists, Pharmacies and Pharmacy Departments, namely:
 - (a) 247 CMR 9.01(1) for failing to conduct professional activities in conformity with federal, state and municipal laws, ordinances and/or regulations, including the regulations of the Board.
 - (b) 247 CMR 9.01(2) for dispensing drugs in a manner which was intended, either directly or indirectly, to circumvent the law.

- (c) 247 CMR 9.01(5) for failing, while on duty, to be responsible for the proper preservation and security of all drugs in the pharmacy or pharmacy department.
- (d) 247 CMR 9.01(6) for engaging in any deceptive or fraudulent act.
- (e) 247 CMR 10.01(1)(a) for violating any of the duties and standards set out in Board regulations, 247 CMR 2.00 *et seq.*, or any rule or written policy adopted by the Board.
- (f) 247 CMR 10.01(1)(b) for violating any provision of M.G.L. c. 112 §§ 24 through 42A or any provision of state or federal statutes or rules or regulations promulgated thereunder related to the practice of the profession.
- (g) 247 CMR 10.01(1)(e) for engaging in misconduct in the practice of the profession.
- (h) 247 CMR 10.01(1)(f) for engaging in conduct beyond the authorized scope of a pharmacist, pharmacy intern or pharmacy technician.
- (i) 247 CMR 10.01(1)(h) for engaging in abuse or illegal use of prescription drugs or controlled substances.
- (j) 247 CMR 10.01(1)(k) for engaging in conduct that has the capacity or potential to place the public health, safety or welfare at risk.
- (k) 247 CMR 10.01(1)(l) for engaging in conduct that has the capacity or potential to deceive or defraud.
- (l) 247 CMR 10.01(1)(r) for engaging in conduct that demonstrates a lack of good moral character.
- (m) 247 CMR 10.01(1)(u) for engaging in conduct which undermines public confidence in the integrity of the profession.
- (n) 247 CMR 10.01(1)(w) for failing to comply with recognized ethical standards of the profession, including, but not limited to, the standards of practice for pharmacists, pharmacy interns, pharmacies and pharmacy departments set forth in 247 CMR 9.01: *Code of Conduct for Registered Pharmacists, Pharmacies and Pharmacy Departments*.
- (o) 247 CMR 10.01(1)(x) for violating M.G.L. c. 94C or any rules or regulations promulgated thereunder.

4. 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.
5. Your conduct as alleged also 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 registration. 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 registration to practice as a 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 Eugene Langner, Prosecuting Counsel, at the following address:

Eugene Langner, 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, then please contact Prosecuting Counsel in advance at (617) 973-0838 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION IN PHARMACY
Sophia Pasedis, R.Ph., Pharm.D. President

By: _____

Eugene Langner, Esq.
Prosecuting Counsel
Department of Public Health

Date: June 21, 2008

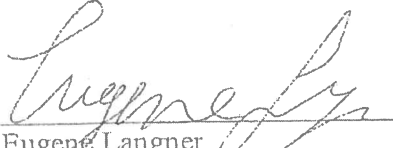
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order to Show Cause was served upon the Respondent:

Trevor Robinson


by first class mail, postage prepaid, and by Certified Mail No. 7007 3020 0000 4345 3075

This 2^d day of June, 2008.


Eugene Langner
Prosecuting Counsel