

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION  
IN PHARMACY

\_\_\_\_\_  
)  
Board of Registration in Pharmacy, )  
Petitioner, )

v. )

)  
**VICKY K. NGUYEN, R.PH.** )  
PH Registration No. 235796 )  
License Expired 12/31/2016, )  
Respondent )  
\_\_\_\_\_ )

Docket No. PHA-2017-0008

FINAL DECISION AND ORDER BY DEFAULT

On June 23, 2017, the Board of Registration in Pharmacy (“Board”) issued and duly served on Vicky K. Nguyen, R.PH. (“Respondent”), an Order to Show Cause (“Show Cause Order”) <sup>1</sup> related to a complaint filed regarding Respondent’s registration as a Pharmacist (“PH Registration”) and her right to renew her PH Registration. 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.<sup>2</sup> The Show Cause Order also notified Respondent of the right to request a hearing on the allegations<sup>3</sup> and that any hearing request (“Request for Hearing”) was to be submitted within 21 days of receipt of the Show Cause Order.<sup>4</sup> 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] registration to practice as a Pharmacist in the Commonwealth of Massachusetts, including any right to renew [Respondent’s]

<sup>1</sup> Pursuant to 801 CMR 1.01(6)(a).

<sup>2</sup> In accordance with 801 CMR 1.01(6)(d)(2).

<sup>3</sup> Pursuant to G.L. c. 112, §61.

<sup>4</sup> Respondent was also notified that failure to timely submit a Request for Hearing would constitute a waiver of the right to a hearing.

registration.” A copy of 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 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). 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 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 October 5, 2017, 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 pharmacist license, effective ten days from the Date Issued, by the following vote:

In favor:	Philippe Bouvier; Garrett Cavanaugh; Karen Conley; William Cox; Timothy Fensky; Patrick Gannon; Andrew Stein; Richard Tinsley
Opposed:	None
Abstained:	None
Recused:	Michael Godek
Absent:	Susan Cornacchio; Ali Raja

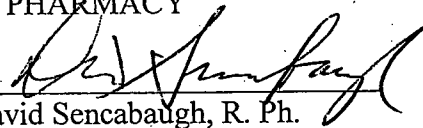
EFFECTIVE DATE OF ORDER

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: 10-10-2017

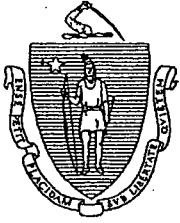
Notice to:

BY FIRST CLASS MAIL AND CERTIFIED MAIL NO. 7015 3010 0001 7079 8010  
RETURN RECEIPT REQUESTED

Vicky K. Nguyen  
29 Hooker Street  
Braintree, MA 02184

BY HAND

Jodi Greenberg  
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  
Bureau of Health Professions Licensure  
239 Causeway Street, Suite 500, Boston, MA 02114

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

Tel: 617-973-0800  
TTY : 617-973-0988  
Fax : 617-973-0986  
[www.mass.gov/dph/boards](http://www.mass.gov/dph/boards)

MARYLOU SUDDERS  
Secretary

MONICA BHAREL, MD, MPH  
Commissioner

June 23, 2017

**BY FIRST CLASS AND CERTIFIED MAIL**

7015 3010 0001 7080 1468

Vicky K. Nguyen  
29 Hooker Street  
Braintree, MA 02184-3233

RE: In the Matter of Vicky K. Nguyen PH Registration No. 235796  
Board of Registration in Pharmacy, Docket No. PHA-2017-0008

Dear Ms. O'Kane:

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 registration as a Pharmacist (PH Registration No. 235796).

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 registration to practice as a Pharmacist in the Commonwealth of Massachusetts, including any right to renew your registration.

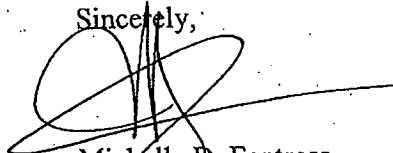
The request for a hearing and your Answer must be filed with Michelle D. Fentress, Prosecuting Counsel at the following address:

Michelle D. Fentress  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel  
239 Causeway Street, Suite 500  
Boston, Massachusetts 02114

If you are represented by an attorney in this matter, all communications should be made through your attorney.

You may contact me at (617) 973-0979 if you have any questions regarding this matter.

Sincerely,



Michelle D. Fentress  
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 លុះមេត្តាបកប្រែជូនផង

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, )  
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 v. )  
 )  
**VICKY K. NGUYEN, R.PH.** )  
 PH Registration No. 235796 )  
 License Expired 12/31/2016, )  
 Respondent )  
 \_\_\_\_\_)

Docket No. PHA-2017-0008

**ORDER TO SHOW CAUSE**

VICKY K. NGUYEN 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 Pharmacist registration in the Commonwealth of Massachusetts, Registration No. 235796 ("license" or "registration") or your right to renew such registration, pursuant to Massachusetts General Laws Chapter 112, §§42A and 61, and Board regulations 247 CMR 2.00 *et seq.*, based upon the following facts and allegations:

**Factual Allegations**

1. On or about May 4, 2015, the Board issued to you a Pharmacist ("PH") registration, Registration No. 235796.
2. You were employed as the Pharmacy Manager at Walgreen's pharmacy #9477 ("Walgreens") located at 2177 Ocean Street, Marshfield, Massachusetts, during the period of March 2014 through December 2016.
3. On or about January 13, 2017, while being interviewed by a representative from Walgreen's Asset Protection Management ("APM"), you informed APM that during the preceding three (3) to six (6) months of your employment as a Pharmacy Manager for Walgreens, you took from Walgreens, multiple controlled substances such as Alprazolam, Schedule IV Controlled Substance; Clonazepam, Schedule IV Controlled Substance; and Suboxone, Schedule III Controlled Substance, in various strengths.
4. During the interview referred to in Paragraph No. 3, you further informed APM that "for personal reasons [you are] responsible for the lost/theft of various controlled medication in store 9477" and that you "assume all responsibilities for [your] actions."

5. On or about January 13, 2017, you signed a "Voluntary Statement," acknowledging that the conduct referred to in Paragraph No. 3 is "a true and accurate statement of the facts."
6. In the January 13, 2017 signed statement, you acknowledged that no promises had been made to you, and that you had not been threatened or mistreated by APM or anyone else into giving the voluntary statement.
7. As a result of your conduct described in Paragraphs Nos. 3 and 4 above, Walgreens incurred a loss of controlled substances valued at approximately \$10,925.80.
8. In the January 13, 2017 signed statement, you wrote "I would like to be given the opportunity to pay for these losses."

#### Criminal Conduct

9. On or about December 23, 2016, you were arrested by the Braintree Police Department and charged criminally with Larceny over \$250, Receiving a Stolen Credit Card, Receiving Stolen property under \$250, and Possession of Class B, C, and E Substances.
10. You did not notify the Board of the pending criminal charges referred to in the preceding paragraph.

#### Grounds for Discipline<sup>1</sup>

- A. Your conduct as alleged in Paragraph Nos. 1-10, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to G.L. c. 112, §§27, 40 and 42A.
- B. Your conduct as alleged in Paragraph Nos. 1-8, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to G.L. c. 112, §61 for deceit, malpractice, and gross misconduct in the practice of the profession and for any offense against the laws of the Commonwealth relating thereto.
- C. Your conduct as alleged in Paragraph Nos. 1-8, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your

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<sup>1</sup> It is well-settled administrative law that due process requires that "notice must be given that is reasonably calculated to apprise an interested party of the proceeding and to afford him an opportunity to present his case;" due process does not require Prosecuting Counsel to provide a detailed description of evidence they intend to introduce at a disciplinary hearing. *Langlitz v. Board of Registration of Chiropractors*, 396 Mass. 374, 376-377 (1985). See *Lapointe v. License Board of Worcester*, 389 Mass. 454, 458 (1983) ("Due process requires notice of the grounds on which the board might act rather than the evidentiary support for those grounds"). Certainly, notice pleadings do not require Prosecuting Counsel to match factual allegations to grounds for discipline. Accordingly, where, as here, there exists significant overlap between factual allegations and grounds for discipline contained within the Order to Show Cause, Prosecuting Counsel's matching of factual allegations to grounds for discipline are offered as suggestions, and not as an exhaustive characterization of the evidence to be adduced at a hearing.

registration to practice as a Pharmacist pursuant to Board regulation 247 CMR 10.03(1)(e) because you engaged in misconduct in the practice of the profession.

- D. Your conduct as alleged in Paragraph Nos. 1-10, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to Board regulation 247 CMR 10.03(1)(h) because you engaged in abuse or illegal use of prescription drugs or controlled substances.
- E. Your conduct as alleged in Paragraph Nos. 1-10, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to Board regulation 247 CMR 10.03(1)(l) because you engaged in conduct that has the capacity or potential to deceive or defraud.
- F. Your conduct as alleged in Paragraph Nos. 1-10, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to Board regulation 247 CMR 10.03(1)(r) because you engaged in conduct that demonstrates lack of good moral character.
- G. Your conduct as alleged in Paragraph Nos. 1-10, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to Board regulation 247 CMR 10.03(1)(u) because you engaged in conduct which undermines public confidence in the integrity of the profession.
- H. Your conduct as alleged in Paragraph Nos. 1-8, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to Board regulation 247 CMR 10.03(1)(v) because you committed an act that violates recognized standards of pharmacy practice.
- I. Your conduct as alleged in Paragraph Nos. 1-8, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to Board regulation 247 CMR 10.03(1)(w) because you failed to comply with recognized ethical standards of the profession, including, but not limited to, the standards of practice of pharmacists, pharmacy interns, pharmacies and pharmacy departments set forth in 247 CMR 9.01 *Code for Conduct for Registered Pharmacists, Pharmacies and Pharmacy Departments*.
- J. Your conduct as alleged in Paragraph Nos. 1-10, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to Board regulation 247 CMR 10.03(1)(x) because you violated G.L. c. 94C or any rules and regulations promulgated thereunder, specifically G.L. c. 94C, §37.



- K. Your conduct as alleged in Paragraph Nos. 9 and 10, as well as other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a Pharmacist pursuant to Board regulation 247 CMR 10.03(1)(aa) because you failed to report to the Board, in writing, within 30 days, any pending criminal charge in Massachusetts.
- L. Your conduct as alleged in Paragraph Nos. 1-10, as well as other evidence that may be adduced at hearing, also constitutes unprofessional conduct and conduct that undermines public confidence in the integrity of the nursing profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); see also *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).

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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 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 offered by the Presiding Officer." Those terms may include a requirement that any copy of the transcript produced must be sent promptly 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 21 days of receipt of the Order to Show Cause *shall result in the entry of default* in the above-captioned matter. Your failure to submit a written request for a hearing within 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, 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 registration to practice as a Pharmacist 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 Michelle Fentress, Prosecutor at the following address:

Michelle D. Fentress, Esq.  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel  
239 Causeway Street, Suite 500  
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 Prosecutor. If you elect to undertake such an examination, then please contact Prosecuting Counsel in advance at (617) 973-0979 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION  
IN PHARMACY,  
David Sencabaugh, R.Ph., Executive Director

By: 

Michelle D. Fentress, Esq.  
Prosecuting Counsel  
Department of Public Health

Date: June 23, 2017

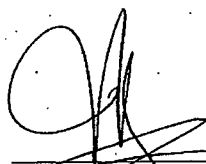
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Cover Letter, Order to Show Cause and Certificate of Service were served upon the Respondent, Vicky K. Nguyen at the following address of record with the Board:

Vicky K. Nguyen  
29 Hooker Street  
Braintree, MA 02184-3233

by first class mail, postage prepaid, and certified mail no. 7015 3010 0001 7080 1468

This 23<sup>rd</sup> day of June, 2017.



\_\_\_\_\_  
Michelle D. Fentress, Esq.  
Prosecuting Counsel