BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: PAMELA GITA NAGY, Original Pharmacy Technician Registration no. TCH 17441, Respondent.	Case No. 2853 OAH No. L2005110350

PROPOSED DECISION

This matter came on regularly for hearing on February 1, 2006, at Los Angeles, California before David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California. Respondent Pamela Gita Nagy was not present despite having been served with notice of the hearing. Complainant Patricia F. Harris was represented by Deputy Attorney General Earl Plowman.

Oral and documentary evidence was presented and the matter was submitted for decision.

FACTUAL FINDINGS

The Administrative Law Judge finds the following facts:

1. The Accusation was filed by Complainant Patricia F. Harris in her official capacity as Executive Officer of the Board of Pharmacy (Board).

2. On October 17, 1995, the Board issued Original Pharmacy Technician Registration no. TCH 17441 to Respondent, which is in full force and effect and will expire on April 30, 2007.

3. Complainant served a proper notice of the hearing on Respondent at her address of record with the Board, the same address that appears on Respondent's Notice of Defense.

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4. On September 5, 2004, Respondent was approached by a police officer who saw her sitting in her car holding several baggies. Respondent was arrested for violation of Health and Safety Code section 11377, subdivision (a), possession of controlled substances. Upon a search of her vehicle, the police found methamphetamine and the following controlled substances and/or dangerous drugs:

Furosemide 40 mg, 9 tablets
Lanoxin .25 mg, 4 tablets
Furosemide 20 mg, 5 tablets
Donnatal, 2 tablets
Potassium Chloride 20 mg, 1 tablet
Tramadol 50 mg, 1 tablet
Lanoxin 0.125 mg, 1 tablet

5. The methamphetamine had not been prescribed for her use. The other medications were taken by Respondent from her employer, Olive View Pharmacy, for Respondent's use without permission. There was no evidence that Respondent had prescriptions for these medications.

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LEGAL CONCLUSIONS AND DISCUSSION

Based upon the foregoing factual findings, the Administrative Law Judges makes the following legal conclusions:

1. Jurisdiction exists and the Board can proceed in this matter, despite Respondent's failure to appear at the hearing, because the Board has properly served a notice of hearing on Respondent, as set forth in Findings 2 and 3. Government Code section 11520.

2. Cause exists to suspend or revoke Respondent's registration as a pharmacy technician for violation of Business and Professions Code sections 4300 and 4301, subdivisions (j) and (o), for unprofessional conduct, and for violation of Business and Professions Code section 4060 and Health and Safety Code section 11170 for illegal possession of a controlled substance, for her possession of methamphetaime, as set forth in Findings 4 and 5.

3. Cause exists to suspend or revoke Respondent's registration as a pharmacy technician for violation of Business and Professions Code sections 4300 and 4301, subdivisions (f) and (o), for unprofessional conduct, and for violation of Business and Professions Code section 4059 for dishonestly obtaining dangerous drugs for her own use, as set forth in Findings 4 and 5.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Pharmacy Technician Registration, no. TCH 17441, issued to Respondent Pamela Gita Nagy is revoked.

DATED: March 2, 2006.

DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: PAMELA GITA NAGY, Original Pharmacy Technician Registration no. TCH 17441, Respondent.	Case No. 2853 OAH No. L2005110350

DECISION

The attached proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This Decision shall become effective on April 28, 2006.

IT IS SO ORDERED this 29th day of March, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: PAMELA GITA NAGY 11145 Genesta Avenue Granada Hills, CA 91344 Original Pharmacy Technician Registration No. TCH 17441, Respondent.	Case No. 2853 **ACCUSATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about October 17, 1995, the Board of Pharmacy issued Original Pharmacy Technician Registration No. TCH 17441 to Pamela Gita Nagy (Respondent). The Original Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.

6. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

. . . .

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

. . . .

"(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

. . . .

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

7. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

"(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

"(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

"(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."

8. Section 4059 of the Code states, in pertinent part, that a person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

9. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, . . ."

10. Section 11170 of the Health and Safety Code provides: "no person shall prescribe, administer, or furnish a controlled substance for himself."

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

12. <u>CONTROLLED SUBSTANCE</u>

A. "Methamphetamine" is a Schedule II controlled substances as defined in Health and Safety Code section 11055(d)(2) and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022 of the Code.

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11. DANGEROUS DRUGS

The following listed drugs are categorized as a dangerous drug pursuant to Business and Professions Code section 4022 of the Code:

a. Furosemide
b. Lanoxin
c. Tramadol
d. Potassium Chloride
e. Donnatal

FIRST CAUSE FOR DISCIPLINE

(Possession of a Controlled Substance)

12. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivisions (j) and (o) on the grounds of unprofessional conduct, for violating section 4060 and Health and Safety Code section11170 in that Respondent was illegally in possession of a controlled Schedule II substance on or about September 5, 2004, in that she had possession of Methamphetamine which had not been prescribed for her use.

SECOND CAUSE FOR DISCIPLINE

(Fraudulently Obtained Dangerous Drugs)

13. Respondent is further subject to disciplinary action under sections 4300 and 4301, subdivisions (f) and (o) on the grounds of unprofessional conduct, for violating section 4059 of the Code in that Respondent fraudulently obtained dangerous drugs for her own use. The circumstances are as follows:

a. On or about September 5, 2004, a search of Respondent's vehicle conducted by the Los Angeles Police Department uncovered the following dangerous drugs in her possession.

9 Furosemide 40mg. tablets
4 Lanoxin .25mg. tablets
5 Furosemide 20mg. tablets
2 Donnatal tablet
1 Potassium 20mg. tablets
1 Tramadol 50mg. tablet
1 Clondine HCI .2mg. tablet
1 Lanoxin 0.125mg. tablet

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b. The medications were taken from Respondent's employer, Olive View Pharmacy, by the Respondent for her use and without permission to possess these medications and without a prescription.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Technician Registration Number TCH 17441, issued to Pamela Gita Nagy.

2. Ordering Pamela Gita Nagy to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 7/22/05

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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