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5 **BEFORE THE**
6 **BOARD OF PHARMACY**
DEPARTMENT OF CONSUMER AFFAIRS
7 **STATE OF CALIFORNIA**

8 In the Matter of the Accusation Against:

Case No. 3592

9 **PATTI LYNN HUNT**
10 **P.O. Box 2493**
11 **El Cajon, CA 92021**

DEFAULT DECISION AND ORDER

12 **Pharmacy Technician License No. TCH**
13 **2936**

[Gov. Code, §11520]

14 Respondent.

15 **FINDINGS OF FACT**

16 1. On or about May 28, 2010, Complainant Virginia Herold, in her official capacity as
17 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
18 Accusation No. 3592 against Patti Lynn Hunt (Respondent) before the Board of Pharmacy.

19 2. On or about December 30, 1992, the Board of Pharmacy (Board) issued Pharmacy
20 Technician License No. TCH 2936 to Respondent. The Pharmacy Technician License was in full
21 force and effect at all times relevant to the charges brought herein and will expire on August 31,
22 2010, unless renewed.

23 3. On or about June 8, 2010, V. Cruz, an employee of the Department of Justice, served
24 by Certified and First Class Mail a copy of the Accusation No. 3592, Statement to Respondent,
25 Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and
26 11507.7 to Respondent's address of record with the Board, which was and is: P.O. Box 2493
27 El Cajon, CA 92021. A copy of the Accusation is attached as Exhibit A, and is incorporated
28 herein by reference.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c).

3 5. Government Code section 11506 states, in pertinent part:

4 (c) The respondent shall be entitled to a hearing on the merits if the respondent
5 files a notice of defense, and the notice shall be deemed a specific denial of all parts
6 of the accusation not expressly admitted. Failure to file a notice of defense shall
7 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
8 may nevertheless grant a hearing.

9 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
10 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3592.

11 7. California Government Code section 11520 states, in pertinent part:

12 (a) If the respondent either fails to file a notice of defense or to appear at the
13 hearing, the agency may take action based upon the respondent's express admissions
14 or upon other evidence and affidavits may be used as evidence without any notice to
15 respondent.

16 8. Pursuant to its authority under Government Code section 11520, the Board finds
17 Respondent is in default. The Board will take action without further hearing and, based on the
18 evidence on file herein, finds that the allegations in Accusation No. 3592 are true.

19 9. The total cost for investigation and enforcement in connection with the Accusation
20 are \$2,854.50 as of July 1, 2010.

21 DETERMINATION OF ISSUES

22 1. Based on the foregoing findings of fact, Respondent Patti Lynn Hunt has subjected
23 her Pharmacy Technician License No. TCH 2936 to discipline.

24 2. A copy of the Accusation is attached.

25 3. The agency has jurisdiction to adjudicate this case by default.

26 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
27 License based upon the following violations alleged in the Accusation:

28 a. Respondent is subject to disciplinary action under Business and Professions Code
section 4301(h) in conjunction with Health and Safety Code section 11170 in that on or about
July 22, 2007, while she was on duty as a pharmacy technician, she administered to herself a
controlled substance, and tested positive for Zolpidem (Ambien). Respondent did not have a

1 prescription for Ambien. While at work, Respondent was observed as being drowsy, her work
2 process extremely slow and she was disengaged and spacey.

3 b. Respondent is subject to disciplinary action under Business and Professions Code
4 section 4301(j) in conjunction with Health & Safety Code section 11170 for illegally furnishing
5 Ambien, a controlled substance, to herself.

6 c. Respondent is subject to disciplinary action under Business and Professions Code
7 section 4301(j) in conjunction with Business and Professions Code section 4060 in that
8 Respondent was in possession of a controlled substance, Ambien, without a legitimate
9 prescription.

10 d. Respondent is subject to disciplinary action under Business and Professions Code
11 section 4301(h) in that she used a dangerous drug to the extent or in a manner as to be dangerous
12 or injurious to others and to the extent that the use impairs the ability of the person to conduct
13 with safety to the public the practice authorized by the license when she worked as a pharmacy
14 technician and dispensed medication while she was under the influence of Ambien.

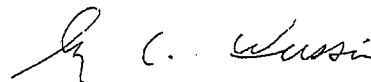
15 ORDER

16 IT IS SO ORDERED that Pharmacy Technician License No. TCH 2936, heretofore issued
17 to Respondent Patti Lynn Hunt, is revoked.

18 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
19 written motion requesting that the Decision be vacated and stating the grounds relied on within
20 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
21 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

22 This Decision shall become effective on October 27, 2010.

23 It is so ORDERED September 27, 2010.



24
25 STANLEY C. WEISSER, BOARD PRESIDENT
26 FOR THE BOARD OF PHARMACY
27 DEPARTMENT OF CONSUMER AFFAIRS

28 DOJ docket number: SD2010800121

Attachment: Exhibit A: Accusation No. 3592

Exhibit A
Accusation No. 3592

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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

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12 **PATTI LYNN HUNT**
13 **P.O. Box 2493**
El Cajon, CA 92021
14 **Pharmacy Technician License No. TCH**
15 **2936**

A C C U S A T I O N

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about December 30, 1992, the Board of Pharmacy issued Pharmacy Technician
22 License No. TCH 2936 to Patti Lynn Hunt (Respondent). The Pharmacy Technician License was
23 in full force and effect at all times relevant to the charges brought herein and will expire on
24 August 31, 2010, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4300 of the Code states, in pertinent part that:

2 (a) Every license issued may be suspended or revoked.

3 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
4 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
5 disciplinary action during the period within which the license may be renewed, restored, reissued
6 or reinstated.

7 STATUTORY PROVISIONS

8 6. Section 4301 of the Code states:

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

12 ...

13 (h) The administering to oneself, of any controlled substance, or the use of
14 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
15 dangerous or injurious to oneself, to a person holding a license under this chapter,
16 or to any other person or to the public, or to the extent that the use impairs the
 ability of the person to conduct with safety to the public the practice authorized by
 the license.

17 ...

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

20

21 7. Section 4022 of the Code states

22 "Dangerous drug" or "dangerous device" means any drug or device unsafe
23 for self-use in humans or animals, and includes the following:

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

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

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(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 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, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

9. Health & Safety Code section 11170 states that "[n]o person shall prescribe, administer, or furnish a controlled substance for himself."

10. Health & Safety Code section 11173 states in pertinent part that no person shall obtain a controlled substance by fraud, deceit, subterfuge or concealment of a material fact.

COSTS

11. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

DRUG

12. Ambien is a Schedule IV controlled substance pursuant to Health & Safety Code section 11057(d)(32) and is a dangerous drug pursuant to Business and Professions Code section 4022. Ambien is the trade name for the narcotic substance Zolpidem.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Self-Administration of a Controlled Substance)

3 13. Respondent is subject to disciplinary action under Code section 4301(h) in
4 conjunction with Health and Safety Code section 11170 in that she administered to herself a
5 controlled substance. The circumstances are as follows:

6 14. On or about July 22, 2007, Respondent was working as a pharmacy technician at San
7 Diego Hospice Pharmacy in San Diego, California. While Respondent was on duty as a
8 pharmacy technician, the pharmacist observed impaired behavior by Respondent. Respondent
9 was drowsy, her work process was extremely slow and she was disengaged and spacey. The
10 pharmacy manager asked Respondent to submit to a drug test, which she did. Respondent's drug
11 test was positive for Zolpidem (Ambien). Respondent did not have a prescription for Ambien.
12 Additionally, for the month of July 2007, 30 tablets of Ambien were missing from the pharmacy.

13 SECOND CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct - Illegal Furnishing of a Controlled Substance to Oneself)

15 15. Respondent is subject to disciplinary action under Code section 4301(j) in
16 conjunction with Health & Safety Code section 11170 for illegally furnishing a controlled
17 substance to herself, as more particularly alleged in paragraph 14 above, and incorporated herein
18 by reference.

19 THIRD CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct - Possession of a Controlled Substance Without a Prescription)

21 16. Respondent is subject to disciplinary action under Code section 4301(j) in
22 conjunction with Code section 4060 in that Respondent was in possession of a controlled
23 substance without a legitimate prescription, as more particularly alleged in paragraph 14 above,
24 and incorporated herein by reference.

25 FOURTH CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct - Dispensing While Under the Influence)

27 17. Respondent is subject to disciplinary action under Code section 4301(h) in that she
28 used a dangerous drug to the extent or in a manner as to be dangerous or injurious to others and to


1 the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license when she worked as a pharmacy technician and dispensed
3 medication while she was under the influence of Ambien, as more particularly alleged in
4 paragraph 14 above, and incorporated herein by reference.

5 PRAYER

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

- 8 1. Revoking or suspending Pharmacy Technician License No. TCH 2936, issued to Patti
9 Lynn Hunt;
- 10 2. Ordering Patti Lynn Hunt to pay the Board of Pharmacy the reasonable costs of the
11 investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3; and
- 13 3. Taking such other and further action as deemed necessary and proper.

14
15 DATED: 5/28/10


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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