

1
2
3
4
5
6 **BEFORE THE**
7 **BOARD OF PHARMACY**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3831

11 **KAREN ANNE ALLEN**
12 20757 Archwood St.
13 Winnetka, CA 91306

DEFAULT DECISION AND ORDER

14 Pharmacy Technician License No. TCH 28779

[Gov. Code, §11520]

15 Respondent.

16 FINDINGS OF FACT

17 1. On or about February 7, 2011, Complainant Virginia Herold, in her official capacity
18 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
19 Accusation No. 3831 against Karen Anne Allen (Respondent) before the Board of Pharmacy.
20 (Accusation attached as Exhibit A.)

21 2. On or about March 23, 1999, the Board of Pharmacy (Board) issued Pharmacy
22 Technician License No. TCH 28779 to Respondent. The Pharmacy Technician License was in
23 full force and effect at all times relevant to the charges brought in Accusation No. 3831 and will
24 expire on April 30, 2012, unless renewed.

25 3. On or about March 2, 2011, Respondent was served by Certified and First Class Mail
26 copies of the Accusation No. 3831, Statement to Respondent, Notice of Defense, Request for
27 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
28 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
is required to be reported and maintained with the Board, which was and is: 20757 Archwood
St., Winnetka, CA 91306.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code
3 section 124.

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

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

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3831.

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

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

17 8. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
20 taking official notice of all the investigatory reports, exhibits and statements contained therein on
21 file at the Board's offices regarding the allegations contained in Accusation No. 3831, finds that
22 the charges and allegations in Accusation No. 3831, are separately and severally, found to be true
23 and correct by clear and convincing evidence.

24 9. Taking official notice of its own internal records, pursuant to Business and
25 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
26 and Enforcement is \$4,817.50 as of August 10, 2011.

27 ///

28 ///

 ///

 ///

 ///

DETERMINATION OF ISSUES

1
2 1. Based on the foregoing findings of fact, Respondent Karen Anne Allen has subjected
3 her Pharmacy Technician License No. TCH 28779 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6 License based upon the following violations alleged in the Accusation which are supported by the
7 evidence contained in the Default Decision Evidence Packet in this case.:

8 a. Business and Professions Code sections 490, 4300 and 4301, subdivision (l), and
9 California Code of Regulations, title 16, section 1770, convictions of substantially related crimes.

10 b. Business and Professions Code sections 4300 and 4301, subdivision (k), convictions
11 involving dangerous drugs.

12 c. Business and Professions Code sections 4300, 4301, subdivision (j), and 4060 illegal
13 possession of controlled substances.

14 d. Business and Professions Code sections 4300 and 4301, subdivision (h), dangerous
15 use of controlled substances.

16 e. Business and Professions Code sections 4300 and 4301, subdivision (j), and Health
17 and Safety Code sections 11170, 11173, subdivision (a), 11350, subdivision (a), and 11377,
18 subdivision (a), violating drug statutes.

19 f. Business and Professions Code sections 4300 and 4301, subdivision (g), false
20 statement on application for licensure.

21 g. Business and Professions Code sections 4300 and 4301, subdivision (f), acts
22 involving moral turpitude, dishonesty, fraud, deceit, or corruption.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

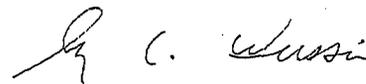
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 28779, heretofore issued to Respondent Karen Anne Allen, is revoked.

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

This Decision shall become effective on December 2, 2011.

It is so ORDERED November 2, 2011.



STANLEY C. WEISSER, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

60664753.DOC
DOJ Matter ID:LA2010600972

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 STEPHEN A. MILLS
Deputy Attorney General
4 State Bar No. 54145
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2539
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 3831

12 **KAREN ANNE ALLEN**
20757 Archwood St.
13 Winnetka, CA 91306

A C C U S A T I O N

14 Pharmacy Technician License No. TCH 28779

15 Respondent.
16

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about March 23, 1999, the Board issued Pharmacy Technician License No.
23 TCH 28779 to Karen Anne Allen (Respondent). The Pharmacy Technician License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on April 30,
25 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
2 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
3 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
4 labeled with the name and address of the supplier or producer.

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

8 8. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
9 revoked."

10 9. Section 4301 states, in pertinent part:

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

14

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

18 "(g) Knowingly making or signing any certificate or other document that falsely
19 represents the existence or nonexistence of a state of facts.

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

25

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

28 ///

DRUG STATUTES

1
2 11. Health and Safety Code section 11170 states that "[n]o person shall prescribe,
3 administer, or furnish a controlled substance for himself."

4 12. Health and Safety Code section 11173, subdivision (a), states that "[n]o person shall
5 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
6 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
7 or subterfuge; or (2) by the concealment of a material fact."

8 13. Health and Safety Code section 11350, subdivision (a), states:

9 "Except as otherwise provided in this division, every person who possesses (1) any
10 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
11 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
12 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
13 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
14 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
15 licensed to practice in this state, shall be punished by imprisonment in the state prison."

16 14. Health and Safety Code section 11377, subdivision (a), states:

17 "Except as authorized by law and as otherwise provided in subdivision (b) or Section
18 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the
19 Business and Professions Code, every person who possesses any controlled substance which is
20 (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in
21 subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d),
22 (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)
23 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section
24 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to
25 practice in this state, shall be punished by imprisonment in a county jail for a period of not more
26 than one year or in the state prison."

27 ///

28 ///

1 COST RECOVERY

2 15. Section 125.3 states, in pertinent part, that the Board may request the administrative
3 law judge to direct a licensee found to have committed a violation or violations of the licensing
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
5 case.

6 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

7 16. **Ativan**, a brand name for Lorazepam, a **benzodiazepine derivative**, is a Schedule IV
8 controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(16),
9 and is categorized as a dangerous drug pursuant to section 4022.

10 17. Hydrocodone is in Schedule II of the Controlled Substances Act. **Lortab**, **Norco** and
11 **Vicodin**, brand/trade names of preparations containing hydrocodone in combination with other
12 non-narcotic medicinal ingredients, are in Schedule III pursuant to Health and safety Code section
13 11056(e)(4), and are categorized as dangerous drugs pursuant to section 4022.

14 18. **Valium**, a trade name for the chemical substance diazepam, a **benzodiazepam**
15 **derivative**, is a Schedule IV controlled substance as designated by Health and Safety Code
16 section 11057(d)(9) and is categorized as a dangerous drug pursuant to section 4022.

17 19. **Xanax**, a brand name for alprazolam, a **benzodiazepine**, is a Schedule IV controlled
18 substance as designated by Health and Safety Code section 11057(d)(1) and is categorized as a
19 dangerous drug pursuant to section 4022.

20 FIRST CAUSE FOR DISCIPLINE

21 (Convictions of Substantially Related Crimes)

22 20. Respondent is subject to disciplinary action under section 490, 4300 and 4301,
23 subdivision (1), in conjunction with California Code of Regulations, title 16, section 1770, on the
24 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
25 related to the qualifications, functions or duties of a registered pharmacy technician which to a
26 substantial degree evidence her present or potential unfitness to perform the functions authorized
27 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

28 ///

1 a. On or about August 18, 2009, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [driving under
3 the influence of alcohol/drugs] in the criminal proceeding entitled *The People of the State of*
4 *California v. Karen Anne Allen* (Super. Ct. Los Angeles County, 2009, No. SA 070585). The
5 Court placed Respondent on 36 months of probation to run concurrent with Case No. 9MB00910,
6 and ordered her to complete a three (3) month 1st Offender Alcohol/Drug Program. Further, on or
7 about August 18, 2009, after pleading guilty, in Case No. 9MB00910, Respondent was placed on
8 18 months of deferred entry of judgment for a misdemeanor violation of Health and Safety Code
9 section 11375(b)(2) [possession of controlled substance].

10 b. The circumstances underlying the conviction are that on or about February 7, 2009,
11 while under the tested influence of benzodiazepine, Respondent drove her vehicle into a guard
12 rail, causing the vehicle to have a front right flat tire, and she continued to drive the vehicle riding
13 on the flat tire's rim until pulled over by Los Angeles Sheriff's Department officers. Respondent
14 was in possession of 128 Vicodin, 61 Valium, 45 Xanax, and 5 Ativan, controlled substances and
15 dangerous drugs, without valid prescriptions.

16 c. On or about August 18, 2009, after pleading nolo contendere, Respondent was
17 convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [driving while
18 under the influence of alcohol/drugs] in the criminal proceeding entitled *The People of the State*
19 *of California v. Karen Anne Allen* (Super. Ct., Los Angeles County, No. 9MB00910). The Court
20 sentenced Respondent to four (4) days in jail, placed her on 60 months of probation, ordered her
21 to complete an 18 months driving-under-the-influence program, ordered her to complete
22 additional AA/NA meetings three (3) times per week, and ordered her to continue counseling at
23 Kaiser.

24 d. The circumstances underlying the conviction are that on or about March 4, 2009,
25 while under the tested influence of benzodiazepine, Respondent drove a vehicle and was in
26 possession of 35 Valium, 98 Xanax, and 1 Vicodin, controlled substances and dangerous drugs,
27 without valid prescriptions.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SECOND CAUSE FOR DISCIPLINE

(Convictions Involving Dangerous Drugs)

21. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (k), in that on or about August 18, 2009, Respondent sustained misdemeanor convictions involving the use, consumption, or self-administration of dangerous drugs. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 20, subparagraphs a - d, inclusive, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Illegal Possession of Controlled Substances)

22. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (j), in conjunction with section 4060, on the grounds of unprofessional conduct, in that on or about February 7, 2009, and March 4, 2009, Respondent was in possession of controlled substances and dangerous drugs, without valid prescriptions. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 20, subparagraphs b and d, inclusive, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Dangerous Use of Controlled Substances)

23. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (h), on the grounds of unprofessional conduct, in that Respondent administered to herself controlled substances, and / or used dangerous drugs to the extent or in a manner as to be dangerous or injurious to herself or others. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 20 - 23, inclusive, as though set forth fully.

FIFTH CAUSE FOR DISCIPLINE

(Violating Drug Statutes)

24. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (j), on the grounds of unprofessional conduct, for violating provisions of the Health and Safety Code as follows:

- 1 a. Section 11170 for prescribing, administering and / or furnishing controlled substances
- 2 her herself.
- 3 b. Section 11173, subdivision (a), for obtaining controlled substances by fraud, deceit or
- 4 subterfuge.
- 5 c. Section 11350, subdivision (a), by possessing Vicodin, a narcotic and controlled
- 6 substance.
- 7 d. Section 11377, subdivision (a), by possessing Valium, Ativan, and Xanax, controlled
- 8 substances.
- 9 Complainant refers to and by this reference incorporates the allegations set forth above in
- 10 paragraphs 20 - 23, inclusive, as though set forth fully.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 **(False Statement on Application for Licensure)**

13 25. Respondent is subject to disciplinary action under section 4300 and 4301,

14 subdivision (g), on the grounds of unprofessional conduct, in that Respondent knowingly made or

15 signed her April 30, 2010, "Renewal Application" for licensure by falsely representing a state of

16 facts when she answered "No" to the question: "Since you last renewed your license, have you

17 had any license disciplined by a government agency or other disciplinary body; or, have you been

18 convicted of any crime in any state, the U S A and its territories, military court of a foreign

19 country?" Respondent sustained two (2) criminal convictions within the year prior to renewing

20 her license, on or about August 18, 2009. Complainant refers to and by this reference

21 incorporates the allegations set forth above in paragraph 20, subparagraphs a and c, inclusive, as

22 though set forth fully.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

25 26. Respondent is subject to disciplinary action under sections 4300 and 4301,

26 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts

27 involving moral turpitude, dishonesty, fraud, deceit and / or corruption. Complainant refers to

28 ///

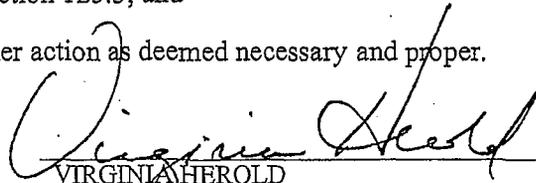
1 and by this reference incorporates the allegations set forth above in paragraphs 20 - 25, inclusive,
2 as though set forth fully.

3 PRAYER

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

- 6 1. Revoking or suspending Pharmacy Technician License No. TCH 28779, issued to
7 Respondent;
- 8 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
9 enforcement of this case, pursuant to section 125.3; and
- 10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: 2/7/11



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

12 LA2010600972
13 11/15/2010dmm; 2/2/2011dmm
14 60578629.doc

15
16
17
18
19
20
21
22
23
24
25
26
27
28