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

In the Matter of the Accusation Against:

TARAH ANGELA BROWN
1120 Lincoln Ave. #3
San Rafael, CA 94901
Pharmacy Technician License No. TCH
52956

Respondent.

Case No. 4074

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 22, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4074 against Tarah Angela Brown (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about November 26, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 52956 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4074 but then expired on October 31, 2011. This lapse in licensure, however, pursuant to Business and Professions Code section 118(b), does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

3. On or about September 19, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4074, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 4100, is required to be reported and maintained with the Board, which was and is:

3 1120 Lincoln Ave. #3
4 San Rafael, CA 94901.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about September 26, 2011, the aforementioned documents were returned by the
9 U.S. Postal Service marked as having no forwarding address and unclaimed. The address on the
10 documents was the same as the address on file with the Board. Respondent failed to maintain an
11 updated address with the Board and the Board has made attempts to serve the Respondent at the
12 address on file. Respondent has not made herself available for service and therefore, has not
13 availed herself of her right to file a notice of defense and appear at hearing.

14 6. Government Code section 11506 states, in pertinent part:

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
21 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4074.

22 8. California Government Code section 11520 states, in pertinent part:

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

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 4074, finds that

1 the charges and allegations in Accusation No. 4074 are, separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$1,392.50 as of November 9, 2011.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Tarah Angela Brown has
8 subjected her Pharmacy Technician License No. TCH 52956 to discipline.

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

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

13 a. Violation of section 4301(f) of the California Business and Professions Code (the
14 "Code") in that in or around 2010, while working at Walgreens Pharmacy, Respondent stole the
15 dangerous drugs Vicoprophen®, Xanax, Norco®, Lortab®, and Adderall®.

16 b. Violation of sections 4301(j) and 4060 of the Code in that Respondent illegally
17 possessed the dangerous drugs Vicoprophen®, Xanax, Norco®, Lortab®, and Adderall®.

18 c. Violation of section 4301(j) of the Code and California Health and Safety Code
19 section 11170 in that Respondent administered stolen Adderall® to herself.

20 d. Violation of sections 4301(j), 4051, and 4059 of the Code in that Respondent
21 furnished medications stolen from Walgreens Pharmacy to another.

22 ORDER

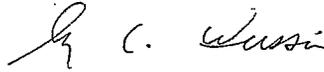
23 IT IS ORDERED that Pharmacy Technician License No. TCH 52956, heretofore issued to
24 Respondent Tarah Angela Brown, is revoked.

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

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This Decision shall become effective on March 22, 2012.

It is so ORDERED February 21, 2012.



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

20554657.DOC
DOJ Matter ID:SF2011201552

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4074

11 **TARAH ANGELA BROWN**
12 **1120 Lincoln Ave. #3**
13 **San Rafael, CA 94901**
14 **Pharmacy Technician License No. TCH**
15 **52956**

A C C U S A T I O N

Respondent.

16 Complainant alleges:

17 **PARTIES**

- 18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20 2. On or about November 26, 2004, the Board of Pharmacy issued Pharmacy Technician
21 License Number TCH 52956 to Tarah Angela Brown (Respondent). The Pharmacy Technician
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on October 31, 2011, unless renewed.
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1 "The board shall take action against any holder of a license who is guilty of unprofessional
2 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

3 Unprofessional conduct shall include, but is not limited to, any of the following:

4 "....

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

8 "....

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

11 "...."

12 7. Section 4051 of the Code states:

13 "(a) Except as otherwise provided in this chapter, it is unlawful for any person to
14 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to
15 dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she
16 is a pharmacist under this chapter.

17 "...."

18 8. Section 4059 of the Code states:

19 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
20 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
21 3640.7. . . .

22 "...."

23 9. Section 4060 of the Code states:

24 "No person shall possess any controlled substance, except that furnished to a person upon
25 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
26 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
27 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
28 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,

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

7"

8 10. Section 4022 of the Code states

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

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

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

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

18 11. California Health and Safety Code § 11170 states: "No person shall prescribe,
19 administer, or furnish a controlled substance for himself."

20 **DRUGS**

21 12. Vicoprophen® is a brand name for a compound used for pain relief containing 200
22 mg ibuprofen with 7.5 mg hydrocodone bitartrate. It is a Schedule III controlled substance as
23 designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as designated by
24 Business and Professions Code section 4022.

25 13. Xanax® is a brand name for Alprazolam, a Schedule IV controlled substance as
26 designated by Health and Safety Code section 11057(d)(1) and is a dangerous drug per Code
27 section 4022.

28

1 14. Norco® and Lortab® are brand names for compounds used for pain relief containing
2 dosages of acetaminophen and hydrocodone bitartrate, Schedule III controlled substances as
3 designated by Health and Safety Code section 11056(e)(4), and dangerous drugs as designated by
4 Business and Professions Code section 4022.

5 15. Adderall® is a brand name psychostimulant composed of various amphetamine salts.
6 It is a Schedule II controlled substance and a dangerous drug as designated by Business and
7 Professions Code section 4022.

8 **COSTS**

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

13 **FIRST CAUSE FOR DISCIPLINE**

14 (Stealing Medications)

15 17. Respondent is subject to disciplinary action under section 4301(f) of the Code in that
16 Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption.
17 Specifically, in or around 2010, while working at Walgreens pharmacy, Respondent stole
18 dangerous drugs, namely Vicoprophen®, Xanax, Norco®, Lortab®, and Adderall®.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Possession of Dangerous Drug)

21 18. Respondent is subject to disciplinary action under sections 4301(j) and 4060 of the
22 Code in that Respondent illegally possessed a dangerous drug. The circumstances are described
23 above in the First Cause for Discipline.

24 **THIRD CAUSE FOR DISCIPLINE**

25 (Self-Administration of Dangerous Drug)

26 19. Respondent is subject to disciplinary action under section 4301(j) and California
27 Health and Safety Code 11170 in that Respondent administered a dangerous drug to herself.

28

1 Specifically, in or around 2010, Respondent administered Adderall® stolen from Walgreens
2 pharmacy to herself.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 (Furnishing of Dangerous Drug to Another)

5 20. Respondent is subject to disciplinary action under sections 4301(j), 4051 and 4059 of
6 the Code in that Respondent furnished a dangerous drug to another. Specifically, in or around
7 2010, Respondent sold medications she stole from Walgreens pharmacy.

8 **PRAYER**

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

11 1. Revoking or suspending Pharmacy Technician License Number TCH 52956, issued
12 to Tarah Angela Brown;

13 2. Ordering Tarah Angela Brown to pay the Board of Pharmacy the reasonable costs of
14 the investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3;

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

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DATED: _____

8/22/11

Virginia Herold

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

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