

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

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

In the Matter of the Accusation Against:

GISELLE LORRAINE SHANNON
P.O. Box 3755
Apple Valley, CA 92307

Pharmacy Technician Registration
No. TCH 75307

Respondent.

Case No. 4584

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 23, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 4584 against Giselle Lorraine Shannon (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about April 10, 2007, the Board issued Pharmacy Technician Registration No. TCH 75307 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4584 and expired on March 31, 2013, and has not been renewed. Pursuant to Business and Professions Code section 4300.1, this lapse in licensure does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

1 3. On or about September 3, 2014, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 4584, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is P.O. Box 3755, Apple Valley, CA 92307.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about October 24, 2014, the aforementioned documents were returned by the
11 U.S. Postal Service marked "Undeliverable as addressed." The address on the documents is the
12 same as the address on file with the Board. Respondent failed to maintain an updated address
13 with the Board and the Board has made attempts to serve the Respondent at the address on file.
14 Respondent has not made herself available for service and therefore, has not availed herself of her
15 right to file a notice of defense and appear at hearing.

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

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

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
23 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4584.

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

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

 9. Pursuant to its authority under Government Code section 11520, the Board finds
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

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board's offices regarding the allegations contained in Accusation No. 4584, finds that
3 the charges and allegations in Accusation No. 4584, are separately and severally, found to be true
4 and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$7,813.00 as of July 13, 2015.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Giselle Lorraine Shannon has
10 subjected her Pharmacy Technician Registration No. TCH 75307 to discipline.

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

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

15 a. Respondent is subject to disciplinary action pursuant to Business and Professions
16 Code sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations,
17 title 16, section 1770, in that, Respondent was convicted of a crime substantially related to the
18 qualifications, functions or duties of a pharmacy technician as follows:

19 (i) On or about November 2, 2012, Respondent was convicted of one felony count
20 of violating Welfare and Institutions Code section 10980, subdivision (c)(2) [aid by
21 misrepresentation-over \$950] in the criminal proceeding entitled *The People of the State of*
22 *California v. Giselle Shannon, aka Giselle Lorraine Shannon* (Super. Ct. San Bernardino County,
23 2012, No. FSB1102042).

24 (ii) On or about June 8, 2012, Respondent was convicted of one felony count of
25 violating Penal Code section 487, subdivision (a) [grand theft by embezzlement] in the criminal
26 proceeding entitled *The People of the State of California v. Giselle Shannon*, (Super. Ct. San
27 Bernardino County, 2012, No. FVI1101961.)

28

1 b. Respondent is subject to disciplinary action pursuant to Business and Professions
2 Code section 4301, subdivision (o), in conjunction with section 4060, on the grounds of
3 unprofessional conduct in that between April 1, 2011 and June 2, 2011, Respondent, while
4 working as a pharmacy clerk, violated Pharmacy Law by unlawfully possessed Norco/Vicodin
5 pills.

6 c. Respondent is subject to disciplinary action pursuant to is subject to disciplinary
7 action pursuant to Business and Professions Code section 4301, subdivision (j), in conjunction
8 with health and Safety Code section 11350, subdivision (a), and section 11173, subdivision (a),
9 on the grounds of unprofessional conduct in that between April 1, 2011 and June 2, 2011,
10 Respondent, while working as a pharmacy clerk, violated California rules regulating controlled
11 substances when she unlawfully possessed Norco/Vicodin pills.

12 d. Respondent is subject to disciplinary action pursuant to Business and Professions
13 Code section 4301, subdivision (g), on the grounds of unprofessional conduct, in that,
14 Respondent knowingly made or signed a document that falsely represented the existence or
15 nonexistence of a state of facts in order to obtain aid.

16 e. Respondent is subject to disciplinary action pursuant to Business and Professions
17 Code section 4301, subdivision (f), on the grounds of unprofessional conduct, in that, Respondent
18 committed dishonest acts.

19 ///

20 ///

21 ///

22 ///

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 Registration No. TCH 75307, heretofore issued to Respondent Giselle Lorraine Shannon, 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 September 11, 2015.

It is so ORDERED August 12, 2015 .

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

51708273.DOC
DOJ Matter ID:LA2013508801

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 KIMBERLEE D. KING
Supervising Deputy Attorney General
4 State Bar No. 141813
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2581
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4584

12 **GISELLE LORRAINE SHANNON**
13 P.O. Box 3755
Apple Valley, CA 92307

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 75307

16 Respondent.

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.

22 2. On or about April 10, 2007, the Board of Pharmacy ("Board") issued Pharmacy
23 Technician Registration No. TCH 75307 to Giselle Lorraine Shannon ("Respondent"). The
24 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
25 brought herein and expired on March 31, 2013, and has not been 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 4. Section 4300.1 of the Code states:

2 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
3 operation of law or by order or decision of the board or a court of law, the placement of a license
4 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
5 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
6 proceeding against, the licensee or to render a decision suspending or revoking the license."

7 5. Section 4300 of the Code states, in pertinent part:

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

9 "(b) The board shall discipline the holder of any license issued by the board, whose default
10 has been entered or whose case has been heard by the board and found guilty, by any of the
11 following methods:

12 "(1) Suspending judgment.

13 "(2) Placing him or her upon probation.

14 "(3) Suspending his or her right to practice for a period not exceeding one year.

15 "(4) Revoking his or her license.

16 "(5) Taking any other action in relation to disciplining him or her as the board in its
17 discretion may deem proper. . . . "

18 **STATUTORY PROVISIONS**

19 6. Section 4060 of the Code states, in pertinent part:

20 "No person shall possess any controlled substance, except that furnished to a person upon
21 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
22 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
23 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
24 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
25 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the
26 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,
27 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-

28

1 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled
2 with the name and address of the supplier or producer. "

3 7. Section 4301 of the Code states, in pertinent part:

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

7

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

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

13

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

16

17 "(l) The conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
19 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
20 substances or of a violation of the statutes of this state regulating controlled substances or
21 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
22 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
23 The board may inquire into the circumstances surrounding the commission of the crime, in order
24 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
25 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
26 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
27 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
28 of this provision. The board may take action when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.

6

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

11 8. Health and Safety Code section 11173, subdivision (a) states:

12 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
13 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
14 misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

15 9. Health and Safety Code section 11350, subdivision (a) states:

16 "(a) Except as otherwise provided in this division, every person who possesses (1) any
17 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
18 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
19 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
20 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
21 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
22 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of
23 Section 1170 of the Penal Code."

24 **REGULATORY PROVISIONS**

25 10. California Code of Regulations, title 16, section 1770 states, in pertinent part:

26 "For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare. "

4 **COST RECOVERY**

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

9 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

10 12. "Soma" is a brand name for carisoprodol and is a dangerous drug according to Code
11 section 4022.

12 13. "Norco" and "Vicodin" are brand names for hydrocodone/apap, which is a Schedule
13 III controlled substance as defined in Health and Safety Code section 11056, subdivision (e)(4)
14 and is a dangerous drug according to Code section 4022.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Conviction of Substantially Related Crimes)**

17 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (l),
18 in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of
19 unprofessional conduct in that Respondent was convicted of crimes substantially related to the
20 qualifications, functions, and duties of a registered pharmacy technician, as follows:

21 (a) On or about November 2, 2012, after pleading guilty, Respondent was convicted of
22 one felony count of violating Welfare and Institutions Code section 10980, subdivision (c)(2) [aid
23 by misrepresentation – over \$950] in the criminal proceeding entitled *The People of the State of*
24 *California v. Giselle Shannon, aka Giselle Lorraine Shannon* (Super. Ct. San Bernardino County,
25 2012, No. FSB1102042.) The Court sentenced Respondent to serve 180 days in San Bernardino
26 County Jail, placed her on five years probation, and ordered her to pay \$8,328.00 in restitution.

27 (b) The circumstances surrounding the conviction are that on or about February 1, 2008,
28 Respondent willfully, unlawfully, and knowingly with the intent to deceive by means of false

1 statements, representations, impersonation, failure to disclose a material fact, or other fraudulent
2 device, did obtain and retain aid that she was not entitled to.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Conviction of Substantially Related Crimes)**

5 15. Respondent is subject to disciplinary action under Code section 4301, subdivision (l),
6 in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of
7 unprofessional conduct in that Respondent was convicted of crimes substantially related to the
8 qualifications, functions, and duties of a registered pharmacy technician, as follows:

9 (a) On or about June 8, 2012, after pleading guilty, Respondent was convicted of one
10 felony count of violating Penal Code section 487, subdivision (a) [grand theft by embezzlement]
11 in the criminal proceeding entitled *The People of the State of California v. Giselle Shannon*
12 (Super. Ct. San Bernardino County, 2012, No. FVII101961.) The Court sentenced Respondent to
13 serve 90 days in San Bernardino County Jail and placed her on 36 months probation with terms
14 and conditions.

15 (b) The circumstances surrounding the conviction are that between approximately April
16 1, 2011 through June 2, 2011, Respondent, who had been employed at a Rite Aid store in
17 Victorville, CA first as a pharmacy technician and then as a pharmacy clerk, unlawfully took
18 approximately 300 Norco pills and approximately 300 Soma pills. Respondent admitted that one
19 or two days a week, she would steal a few pills because she was suffering from back pain.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unlawful Possession of a Controlled Substance)**

22 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
23 in conjunction with Code section 4060, on the grounds of unprofessional conduct in that between
24 approximately April 1, 2011 and June 2, 2011, Respondent, who was pharmacy clerk at Rite Aid,
25 violated the Pharmacy Law by unlawfully possessing approximately 300 Norco/Vicodin pills.
26 Complainant refers to, and by this reference incorporates, the allegations set forth above in
27 paragraph 15, as though fully set forth herein.

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

FOURTH CAUSE FOR DISCIPLINE

(Violating Drug Statutes)

17. Respondent is subject to disciplinary action under Code section 4301, subdivision (j), in conjunction with Health and Safety Code sections 11350, subdivision (a) and 11173, subdivision (a), on the grounds of unprofessional conduct in that between approximately April 1, 2011 and June 2, 2011, Respondent, who was a pharmacy clerk at Rite Aid, violated California rules regulating controlled substances when she unlawfully possessed approximately 300 Norco/Vicodin pills. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 15, as though fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Knowingly Making a False Statement of Fact)

18. Respondent is subject to disciplinary action under section 4301, subdivision (g), on the grounds of unprofessional conduct, in that Respondent knowingly made or signed a document that falsely represented the existence or nonexistence of a state of facts in order to obtain aid. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 14, as though fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Dishonest Acts)


19. Respondent is subject to disciplinary action under Code section 4301, subdivision (f) on the grounds of unprofessional conduct in that Respondent committed dishonest acts. Complainant incorporates by reference paragraphs 14 and 15, as though fully set forth herein.

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

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 75307, issued to Giselle Lorraine Shannon;
2. Ordering Giselle Lorraine Shannon to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/23/14 

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

LA2013508801/51455251.doc