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

In the Matter of the Accusation Against:	Case No. 4937
GABRIELLA CIENFUEGOS	DEFAULT DECISION AND ORDER
222 Sun Rose	
La Verne, CA 91750	
Pharmacy Technician Registration No. TCH 1772	[Gov. Code, §11520]
Respondent.	

FINDINGS OF FACT

1. On or about February 15, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4937 against Gabriella Cienfuegos (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about November 18, 1992, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 1772 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4937 and will expire on December 31, 2015, unless renewed.

1 3. On or about March 6, 2014, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 4937, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is: 222 Sun Rose La Verne, CA 91750.

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. Government Code section 11506 states, in pertinent part:

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

16 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4937.

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

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

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 4937, finds that
28 the charges and allegations in Accusation No. 4937, are separately and severally, found to be true
and correct by clear and convincing evidence.

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ORDER

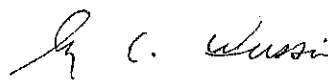
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 1772, heretofore issued to Respondent Gabriella Cienfuegos, is revoked.

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 3, 2014.

It is so ORDERED November 3, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

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DOJ Matter ID:LA2013510328

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Supervising Deputy Attorney General
3 THOMAS L. RINALDI
Deputy Attorney General
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300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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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. 4937

11 **GABRIELLA CIENFUEGOS**
12 **222 Sun Rose**
13 **La Verne, CA 91750**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **1772**

Respondent.

16
17 Complainant alleges:

18 PARTIES

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

21 2. On or about November 18, 1992, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 1772 to Gabriella Cienfuegos (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and will
24 expire on December 31, 2013, 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 unless otherwise indicated.

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

5 5. Section 4060 provides, in pertinent part:

6 "No person shall possess any controlled substance, except that furnished to a person upon
7 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
8 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
9 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
10 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
11 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
12 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052."

13 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
14 subject to discipline, including suspension or revocation.

15 7. Section 4301 provides, in pertinent part:

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

19

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

23

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

26

27 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
28 violation of or conspiring to violate any provision or term of this chapter or of the applicable

1 federal and state laws and regulations governing pharmacy, including regulations established by the
2 board or by any other state or federal regulatory agency."

3 8. Health and Safety Code section 111170 states: No person shall prescribe,
4 administer, or furnish a controlled substance for himself.

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

9 **DANGEROUS DRUG/CONTROLLED SUBSTANCES**

10 10. Norco is the brand name for the combination narcotic, Hydrocodone and
11 Acetaminophen. Hydrocodone is a Schedule III controlled narcotic substance pursuant to Health
12 and Safety Code section 11056(e)(14) and a dangerous drug pursuant to Business and Professions
13 Code section 4022.

14 **BACKGROUND**

15 11. On or around December 4, 2012, Respondent was employed as a registered pharmacy
16 technician at Sav On Pharmacy, in San Dimas, CA. Due to a discrepancy in the pharmacy's Norco
17 count, loss prevention personnel were asked to review the pharmacy's surveillance cameras. Upon
18 review, Respondent was observed taking two Norco tablets and placing them in her sock.
19 Respondent was subsequently interviewed and after being shown the surveillance video, admitted
20 having taken the two Norco tablets.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Theft of Controlled Substances)**

23 12. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision
24 (f), in that she committed acts of moral turpitude and/or dishonesty when she stole two Norco
25 tablets while working as a registered pharmacy technician for Sav On Pharmacy. Complainant
26 refers to, and by this reference incorporates, the allegations set forth above in paragraph 11 as
27 though set forth fully.

28

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unlawful Furnishing of Controlled Substances)**

3 13. Respondent is subject to disciplinary action under section 4301, subdivision (j) in
4 conjunction with Health and Safety Code section 11170 in that she furnished controlled substances
5 to herself while working as a registered pharmacy technician as Sav On Pharmacy. Complainant
6 refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, as
7 though set forth fully.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unlawful Possession of Controlled Substances)**

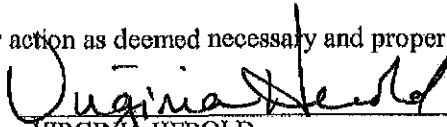
10 14. Respondent is subject to disciplinary action under sections 4300, and 4301,
11 subdivisions (j) and (o) in conjunction with section 4060, in that she unlawfully possessed
12 controlled substances while working as a registered pharmacy technician at Sav On Pharmacy.
13 Complainant refers to, and by this reference incorporates, the allegations set forth above in
14 paragraph 11, as though set forth fully.

15 **PRAYER**

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

- 18 1. Revoking or suspending Pharmacy Technician Registration Number TCH 1772, issued
19 to Gabriella Cienfuegos;
- 20 2. Ordering Gabriella Cienfuegos to pay the Board of Pharmacy the reasonable costs of
21 the investigation and enforcement of this case pursuant to Business and Professions Code section
22 125.3;
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 2/15/14


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

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