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

12 In the Matter of the Accusation Against:

Case No. 5018

13 **SUSAN RENEE COON**
14 **15325 Lake Berryessa Ct.**
15 **Bakersfield, CA 93314**
16 **Pharmacy Technician Registration No. TCH**
17 **104205**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about September 12, 2015, Complainant Virginia K. Herold, in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
22 filed Accusation No. 5018 against Susan Renee Coon (Respondent) before the Board of
23 Pharmacy. (Accusation attached as Exhibit A.)

24 2. On or about June 24, 2010, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 104205 to Respondent. The Pharmacy Technician Registration
26 expired on November 30, 2017, and has not been renewed.

27 3. On February 16, 2016, copies of Accusation No. 5018, Statement to Respondent,
28 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections

1 11507.5, 11507.6, and 11507.7) were sent to Respondent's address of record by Certified and
2 First Class Mail. Pursuant to Business and Professions Code section 136, Respondent is required
3 to report and maintain his address of record with the Board. Respondent's address of record was
4 and is 15325 Lake Berryessa Ct., Bakersfield, CA 93314.

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. Government Code section 11506(c) states, in pertinent part:

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

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5018.

16 7. California Government Code section 11520(a) states, in pertinent part:

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 5018, finds that
26 the charges and allegations in Accusation No. 5018, are separately and severally, found to be true
27 and correct by clear and convincing evidence.

28 9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement are \$6,302.50 as of March 30, 2016.

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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Susan Renee Coon has subjected
3 her Pharmacy Technician Registration No. TCH 104205 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 Registration based upon the following violations alleged in the Accusation which are supported
7 by the evidence contained in the Default Decision Evidence Packet in this case:

8 a. Violation of Code sections 4301 (j) and 4301 (o), and 4059, in conjunction with
9 Health and Safety Code section 11171, on the grounds of unprofessional conduct in that
10 Respondent furnished to herself or another without valid prescription, controlled substances or
11 dangerous drugs;

12 b. Violation of Code section 4301, subdivisions (f) and (o), in that Respondent
13 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption;

14 c. Violation of Code sections 4301, subdivisions (j) and (o), and 4060, in that
15 Respondent possessed dangerous drugs and controlled substances without a valid prescription;

16 d. Violation of Code section 4301 (l), in conjunction with California Code of
17 Regulations, title 16, section 1770, on the grounds of unprofessional conduct in that Respondent
18 was convicted of crimes substantially related to the qualifications, functions, and duties of a
19 registered pharmacy technician;

20 e. Violation of Code section 4301, subdivision (h), in that Respondent used
21 alcoholic beverages to an extent or in a manner dangerous or injurious to himself, another person,
22 or the public;

23 f. Violation of Code section 4301, subdivision (o), on the grounds of
24 unprofessional conduct in that Respondent was convicted of a crime substantially related to the
25 qualifications, functions or duties of a pharmacy technician and committed acts in violation of the
26 Pharmacy Act.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 104205, heretofore issued to Respondent Susan Renee Coon, 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 at 5:00 p.m. on May 26, 2016.

It is so ORDERED on April 26, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

52036465.DOC
DOJ Matter ID:LA2014510885

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(SUSAN RENEE COON)

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

10 In the Matter of the Accusation Against:

Case No. 5018

11 **SUSAN RENEE COON**
12 15325 Lake Berryessa Ct.
13 Bakersfield, CA 93314

ACCUSATION

14 Pharmacy Technician Registration
No. TCH 104205

15 Respondent.

16
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 June 24, 2010, the Board of Pharmacy ("Board") issued Pharmacy
22 Technician Registration No. TCH 104205 to Susan Renee Coons ("Respondent"). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on November 30, 2015, unless renewed.

25 **JURISDICTION**

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

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1 8. Section 493 of the Code states:

2 "Notwithstanding any other provision of law, in a proceeding conducted by a
3 board within the department pursuant to law to deny an application for a license or to
4 suspend or revoke a license or otherwise take disciplinary action against a person who holds
5 a license, upon the ground that the applicant or the licensee has been convicted of a crime
6 substantially related to the qualifications, functions, and duties of the licensee in question,
7 the record of conviction of the crime shall be conclusive evidence of the fact that the
8 conviction occurred, but only of that fact, and the board may inquire into the circumstances
9 surrounding the commission of the crime in order to fix the degree of discipline or to
10 determine if the conviction is substantially related to the qualifications, functions, and
11 duties of the licensee in question."

12 As used in this section, "license" includes "certificate," "permit," "authority,"
13 and "registration."

14 9. Section 4301 of the Code states, in pertinent part:

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

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

22

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

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

3 “(k) The conviction of more than one misdemeanor or any felony involving the use,
4 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
5 combination of those substances.

6 “(l) The conviction of a crime substantially related to the qualifications, functions, and
7 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
8 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
9 substances or of a violation of the statutes of this state regulating controlled substances or
10 dangerous drugs shall be conclusive evidence of unprofessional conduct. . . A plea or verdict of
11 guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the
12 meaning of this provision.”

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14 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
15 violation of or conspiring to violate any provision or term of this chapter or of the applicable
16 federal and state laws and regulations governing pharmacy, including regulations established by
17 the board or by any other state or federal regulatory agency.”

18 10. Section 4059, subdivision (a), of the Code states: .

19 “A person may not furnish any dangerous drug, except upon the prescription of
20 a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to
21 Section 3640.7. A person may not furnish any dangerous device, except upon the
22 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
23 doctor pursuant to Section 3640.7.”

24 11. Section 4060 of the Code states:

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

1 3502.1. This section shall not apply to the possession of any controlled substance by a
2 manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified
3 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers
4 correctly labeled with the name and address of the supplier or producer.

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

7 12. Health and Safety Code section 11171 provides that "No person shall prescribe,
8 administer, or furnish a controlled substance except under the conditions and in the manner
9 provided by this division."

10 REGULATORY PROVISIONS

11 13. California Code of Regulations, title 16, section 1770, states, in pertinent part:

12 "For the purpose of denial, suspension, or revocation of a personal or facility license
13 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
14 crime or act shall be considered substantially related to the qualifications, functions or duties of a
15 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
16 licensee or registrant to perform the functions authorized by his license or registration in a manner
17 consistent with the public health, safety, or welfare."

18 CONTROLLED SUBSTANCE/DANGEROUS DRUG

19 14. Section 4021 of the Code states:

20 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
21 11053) of Division 10 of the Health and Safety Code."

22 15. Section 4022 of the Code states, in pertinent part:

23 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self use,
24 except veterinary drugs that are labeled as such, and including the following:

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

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1 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only
2 on prescription or furnished pursuant to Section 4006,”

3 16. The following drugs are referenced herein:

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BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER Code Section 4022	CONTROLLED SUBSTANCE PER Health and Safety Code (HSC)	INDICATION FOR USE
Norco	Hydrocodone / Acetaminophen (APAP)	Yes	HSC 11056 (e)(4)	Pain
Xanax	Alprazolam	Yes	HSC 11057 (d)(1)	Anxiety
Soma	Carisoprodol	Yes	No	Muscle relaxer
Ativan	Lorazepam	Yes	HSC 11057(d)(16)	Anxiety
Viagra	Sildenafil	Yes	No	Erectile dysfunction
	Trazadone	Yes	No	Antidepressant

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12 **COST RECOVERY**

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

17 **FACTUAL BACKGROUND**

18 18. Respondent worked at CVS Pharmacy, located at 8200 Stockdale Hwy, Suite 9,
19 Bakersfield, California.

20 19. On or around January 10, 2014, the store conducted an investigation due to
21 unexplained CVS Money Card entries. Respondent was questioned about possible thefts on
22 January 28, 2014.

23 20. Respondent stated she had been working at the store since March 2013. In or around
24 March 2013, Respondent started taking medication home to her boyfriend. Her boyfriend would
25 sell the medications.

26 21. Respondent would take the drugs from the pharmacy and put them in vials. When no
27 one was looking she would pour the contents of the vials in her pocket and discard the vials.
28

1 22. She took approximately eighty bottles of Hydrocodone, approximately sixty bottles of
2 Alprazolam, two to three bottles of Viagra, two to three bottles of Carisoprodol, and
3 approximately one bottle of Lorazepam.

4 23. The last time she took drugs from the pharmacy was about a week prior to January
5 28, 2014.

6 24. At some point, she began stealing gift cards. She would use the gift cards to get
7 cigarettes and alcohol.

8 25. She stole about ten to twelve gift cards worth approximately \$151.99/each.

9 26. She admitted she took Hydrocodone approximately one to three times a week.

10 27. She admitted she took Alprazolam approximately one to two times a week.

11 28. She admitted that she caused the store a loss of about \$12,944.81.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct – Furnishing of Controlled Substance(s))**

14 29. Respondent is subject to disciplinary action under Code sections 4301, subdivisions
15 (j) and (o), and 4059, in conjunction with Health and Safety Code section 11171, in that
16 Respondent furnished to herself or another without a valid prescription, controlled substances or
17 dangerous drugs. Complainant refers to and by this reference incorporates the allegations set
18 forth above in paragraphs 18 through 28, inclusive, as though set forth fully.

19 **SECOND CAUSE FOR DISCIPLINE**

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

21 30. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
22 and (o), on the grounds of unprofessional conduct, in that Respondent committed acts involving
23 moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this
24 reference incorporates the allegations set forth above in paragraphs 18 through 28, inclusive, as
25 though set forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Possession of Dangerous Drugs and Controlled Substances Without a Valid Prescription)**

3 31. Respondent is subject to disciplinary action under Code sections 4301, subdivision (j)
4 and (o), and 4060, in that Respondent possessed, dangerous drugs and controlled substances
5 without a valid prescription. Complainant refers to and by this reference incorporates the
6 allegations set forth above in paragraphs 18 through 28, inclusive, as though set forth fully.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Conviction of Substantially Related Crime)**

9 32. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
10 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in
11 that, Respondent was convicted of a crime substantially related to the qualifications, functions or
12 duties of a pharmacy technician. On or about August 4, 2014, after pleading nolo contendere,
13 Respondent was convicted of one misdemeanor count of violating Vehicle Code section 647(f)
14 [public intoxication] in the criminal proceeding entitled *The People of the State of California v.*
15 *Susan Coons* (Super. Ct. Kern County, 2014, No. BM827018A). The Court placed Respondent
16 on three years probation, with terms and conditions. The circumstances surrounding this
17 conviction are that on or about July 31, 2013, a California Highway Patrol officer approached a
18 car parked approximately ten feet from the curb. The officer saw Respondent in the driver seat
19 slumped over. The officer woke the Respondent up. He could smell an odor of alcohol emitting
20 from the car. The officer asked Respondent to exit the car. When she did, she could not maintain
21 her balance and required the officer's assistance to stand. Her speech was so slurred that the
22 officer could not understand her. The officer transported her to the sheriff's station to conduct a
23 breath test. Respondent's breath test result came back with a blood alcohol level of .22/.23%.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 **(Dangerous Use of Alcohol)**

26 33. Respondent is subject to disciplinary action under section 4301, subdivision (h)
27 and (k) of the Code, in that on or about August 4, 2014, Respondent used alcohol to the extent or
28 in a manner, dangerous or injurious to herself, another person or the public. Complainant refers

1 to, and by this reference incorporates, the allegations set forth above in paragraph 32, as though
2 set forth fully.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Violation of Pharmacy Act)**

5 34. Respondent is subject to disciplinary action under section 4301, subdivision (o) of
6 the Code, on the grounds of unprofessional conduct, in that Respondent was convicted of a crime
7 substantially related to the qualifications, functions or duties of a pharmacy technician and
8 committed acts in violation of the Pharmacy Act. Complainant refers to; and by this reference
9 incorporates, the allegations set forth above in paragraph 32, as though set forth fully.

10 **DISCIPLINARY CONSIDERATIONS**

11 35. In order to determine the degree of discipline, if any to be imposed on Respondent,
12 Complainant alleges the following:

13 a. On or about November 30, 2012, the Board issued Citation and Fine No. CI 2011
14 50330 to Respondent for violating section 4301, subdivision (h) and (l), resulting in an issuance
15 of a \$400.00 fine. Respondent has complied with the citation. The citation was based upon
16 Respondent's conviction that she sustained on or about October 4, 2012, after pleading guilty to
17 violating misdemeanor Vehicle Code section, 23152 subdivision (a) [driving while under the
18 influence of alcohol] in the criminal proceeding entitled *The People of the State of California v.*
19 *Susan Renee Coon* (Super. Ct. Kern County, 2012, No. BM795934A). The Court placed
20 Respondent on two years probation and ordered her to serve two days in jail, and pay a fine

21 b. On or about August 6, 2013, the Board issued Citation and Fine No. CI 2012 56194
22 to Respondent for violating section 4301, subdivisions (h) and (l), resulting in the issuance of a
23 \$400.00. Respondent has complied with the Citation. The citation was based upon Respondent's
24 conviction that she sustained on or about April 11, 2013, after pleading guilty, to one
25 misdemeanor count of violating Penal Code section 647, subdivision (f) [public intoxication] in
26 the criminal proceeding entitled *The People of the State of California v. Susan Renee Coon*
27 (Super. Ct. Kern County, 2013, No. BM280204A). The Court ordered Respondent to pay fines.

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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 104205, issued to Susan Renee Coon;
2. Ordering Susan Renee Coon to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3 of the Code; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/12/15 Virginia Herold
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

8/11/15 kv