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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. 5164

**AARON NUQUI
70 Oaklawn Drive, Apt. 18
Daly City, CA 94015**

DEFAULT DECISION AND ORDER

**Pharmacy Technician Registration No. TCH
124310**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about August 31, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5164 against Aaron Nuqui (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 5, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 124310 to Respondent. The Pharmacy Technician Registration expired on February 28, 2014, and has not been renewed.

1 3. On or about September 10, 2015, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 5164, 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: 70 Oaklawn Drive, Apt. 18, Daly City, CA 94015.

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 September 30, 2015, the aforementioned documents were returned by the
11 U.S. Postal Service marked "Return to Sender - Attempted - Not Known, Unable to Forward."

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

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

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
20 5164.

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

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

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 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. 5164, finds that

1 the charges and allegations in Accusation No. 5164, 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 \$7,128.60 as of October 28, 2015.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Aaron Nuqui has subjected his
8 Pharmacy Technician Registration No. TCH 124310 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 Registration based upon the following violations alleged in the Accusation which are supported
12 by the evidence contained in the Default Decision Evidence Packet in this case:

13 a. Business and Professions Code section 4301, subdivision (f) (unprofessional conduct,
14 moral turpitude, dishonesty, fraud, deceit, or corruption);

15 b. Business and Professions Code section 4301, subdivision (j) (violation of statutes
16 regulating controlled substance or dangerous drugs).

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 124310, issued to Respondent Aaron Nuqui, 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 January 8, 2016.

It is so ORDERED December 9, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

90587313.DOC
DOJ Matter ID:SF2014902245

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(AARON NUQUI)

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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5164

12 **AARON NUQUI**
13 **70 Oaklawn Drive, Apt. 18**
14 **Daly City, CA 94015**

A C C U S A T I O N

15 **Pharmacy Technician Registration**
No. TCH 124310

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about July 5, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 124310 to Aaron Nuqui (Respondent). The Pharmacy Technician
24 Registration expired on February 28, 2014, and has not been 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 4300 of the Code states, in pertinent part:

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

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

6 "(1) Suspending judgment.

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

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

9 "(4) Revoking his or her license.

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

12
13 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
14 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
15 shall have all the powers granted therein. The action shall be final, except that the propriety of the
16 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
17 Procedure."

18 5. Section 4300.1 of the Code states:

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

24 STATUTORY PROVISIONS

25 6. Section 4301 of the Code states, in pertinent part:

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

1 ...
2 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
3 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
4 whether the act is a felony or misdemeanor or not.

5 ...
6 "(j) The violation of any of the statutes of this state, of any other state, or of the United
7 States regulating controlled substances and dangerous drugs."

8 7. Section 4059 of the Code states, in pertinent part:

9 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
10 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
11 3640.7...."

12 8. Section 4060 of the Code states, in pertinent part:

13 "No person shall possess any controlled substance, except that furnished to a person upon
14 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
15 pursuant to Section 3640.7...."

16 COST RECOVERY PROVISION

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

21 DRUG

22 10. The drug combination of promethazine and codeine is a Schedule V controlled
23 substance under Health and Safety Code section 11058, and a dangerous drug under Business and
24 Professions Code section 4022.

25 FACTUAL BACKGROUND

26 11. From on or about August 6, 2012, to on or about July 5, 2013, Respondent stole or
27 pilfered numerous 16-ounce bottles of promethazine with codeine cough syrup while working as a
28

1 pharmacy technician at three Walgreens pharmacies in San Francisco. He admitted to the
2 following thefts:

- 3 at least 15 bottles from the Walgreens on Market Street at 4th Street;
 - 4 at least 3 bottles from the Walgreens on Market Street at 9th Street; and
 - 5 at least 3 bottles from the Walgreens on Market Street at Stockton Street.
- 6 12. Respondent sold the cough syrup to friends at \$100 for each bottle.

7 FIRST CAUSE FOR DISCIPLINE
8 (Unprofessional Conduct: Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)
(Bus. & Prof. Code, § 4301, subd. (f))

9 13. Respondent has subjected his pharmacy technician registration to discipline because he
10 engaged in unprofessional conduct by committed an act of moral turpitude, dishonesty, fraud,
11 deceit, or corruption (Bus. & Prof. Code, § 4301, subd. (f)). The circumstances are described in
12 paragraphs 11 and 12, above.

13 SECOND CAUSE FOR DISCIPLINE
14 (Violation of Statutes Regulating Controlled Substances or Dangerous Drugs)
(Bus. & Prof. Code, §§ 4301, subd. (j); 4059, subd. (a); and 4060)

15 14. Respondent has subjected his pharmacy technician registration to discipline because he
16 violated state statutes regulating controlled substances or dangerous drugs (Bus. & Prof. Code,
17 §§ 4301, subd. (j)). He furnished dangerous drugs without a prescription (Bus. & Prof. Code, §
18 4059, subd. (a)), and he possessed controlled substances without a prescription (Bus. & Prof.
19 Code, § 4060). The circumstances are described in paragraphs 11 and 12, above.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
22 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

23 1. Revoking or suspending Pharmacy Technician Registration Number TCH 124310,
24 issued to Aaron Nuqui;

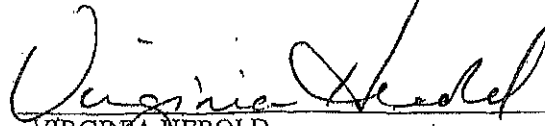
25 2. Ordering Aaron Nuqui to pay the Board of Pharmacy the reasonable costs of the
26 investigation and enforcement of this case, pursuant to Business and Professions Code section
27 125.3;

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

DATED: _____

8/31/15



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

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