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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. 5197

LINDA LORENA GARCIA
13223 Leach St.
Sylmar, CA 91342
Pharmacy Technician Registration No. TCH
49093

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about May 28, 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. 5197 against Linda Lorena Garcia (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about March 2, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 49093 to Respondent. The Pharmacy Technician Registration

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 5197
2 and expired on August 31, 2015 and has not been renewed.

3 3. On or about June 24, 2015, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No. 5197, Statement to Respondent, Notice of Defense, Request for
5 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
6 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
7 is required to be reported and maintained with the Board. Respondent's address of record was
8 and is:

9 13223 Leach St.
10 Sylmar, CA 91342.

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. On or about August 10, 2015, the aforementioned documents were returned by the
15 U.S. Postal Service marked "Unclaimed." The address on the documents was the same as the
16 address on file with the Board. Respondent failed to maintain an updated address with the Board
17 and the Board has made attempts to serve the Respondent at the address on file. Respondent has
18 not made herself available for service and therefore, has not availed herself of her right to file a
19 notice of defense and appear at hearing.

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

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

26 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
27 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5197.

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

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

1 she made or signed a certificate or document that falsely represented the existence or
2 nonexistence of a state of facts.

3 d. Unprofessional Conduct- Falsifying Documents: Respondent Violated
4 Business and Professions Code section 4301 subdivision (g) as Respondent, a licensee, is guilty
5 of unprofessional conduct in that she made or signed a certificate or document that falsely
6 represented the existence or nonexistence of a state of facts.

7 ORDER

8 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 49093, heretofore
9 issued to Respondent Linda Lorena Garcia, is revoked.

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

14 This Decision shall become effective at 5:00 p.m. on June 6, 2016.

15 It is so ORDERED on May 6, 2016.

16 BOARD OF PHARMACY
17 DEPARTMENT OF CONSUMER AFFAIRS
18 STATE OF CALIFORNIA

19 

20
21 By _____
22 Amy Gutierrez, Pharm.D.
23 Board President

24 52019796.DOC
DOJ Matter ID:LA2014511799

25 Attachment:
26 Exhibit A: Accusation

Exhibit A

Accusation

(LINDA LORENA GARCIA)

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
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300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

10
11 In the Matter of the Accusation Against:
12 **LINDA LORENA GARCIA**
13223 Leach St.
13 **Sylmar, CA 91342**
14 **Pharmacy Technician Registration No. TCH**
15 **49093**
16 Respondent.

Case No. 5197

ACCUSATION

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 March 2, 2004, the Board of Pharmacy issued Pharmacy Technician~~
22 Registration Number TCH 49093 to Linda Lorena Garcia (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 August 31, 2015, 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 4300 of the Code states:

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

3 ..."

4 5. Section 4301 of the Code states:

5 "The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

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

8 "...."

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

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

14 "..."

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

17 "..."

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

22 "...."

23 6. Section 4323 of the Code states:

24 "Every person who, in order to obtain any drug, falsely represents himself or herself to be a
25 physician or other person who can lawfully prescribe the drug, or falsely represents that he or she
26 is acting on behalf of a person who can lawfully prescribe the drug, in a telephone or electronic
27 communication with a pharmacist, shall be punished by imprisonment in the county jail for not
28 more than one year."

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4515001	Butalbital/APAP/Caffeine #40	7/1/2013	7/5/2013
4515001	Butalbital/APAP/Caffeine #30	6/28/2013	6/29/2013
4514840	Butalbital/APAP/Caffeine #20	6/21/2013	6/21/2013
4514840	Butalbital/APAP/Caffeine #45	6/14/2013	6/15/2013
4514614	Butalbital/APAP/Caffeine #30	5/24/2013	6/1/2013
4514614	Butalbital/APAP/Caffeine #30	5/30/2013	6/1/2013
4514280	Butalbital/APAP/Caffeine #50	4/29/2013	5/1/2013
4513986	Butalbital/APAP/Caffeine #60	4/15/2013	4/19/2013
4513986	Butalbital/APAP/Caffeine #60	4/10/2013	4/13/2013
4513453	Butalbital/APAP/Caffeine #24	3/15/2013	3/15/2013
4513453	Butalbital/APAP/Caffeine #60	2/28/2013	3/12/2013
4513453	Butalbital/APAP/Caffeine #70	2/14/2013	2/25/2013
4513453	Butalbital/APAP/Caffeine #20	2/12/2013	2/13/2013
4513453	Butalbital/APAP/Caffeine #50	2/06/2013	2/13/2013
4513453	Butalbital/APAP/Caffeine #20	2/09/2013	2/11/2013
4513061	Butalbital/APAP/Caffeine #15	1/15/2013	1/18/2013
4512793	Butalbital/APAP/Caffeine #25	12/27/2012	12/28/2012
4512793	Butalbital/APAP/Caffeine #11	12/27/2012	12/28/2012
4512793	Butalbital/APAP/Caffeine #11	12/21/2012	12/27/2012
4512793	Butalbital/APAP/Caffeine #35	12/17/2012	12/27/2012
6858984	Butalbital/APAP/Caffeine #37	9/15/2012	9/19/2012
6858984	Butalbital/APAP/Caffeine #13	9/5/2012	9/19/2012
6858984	Butalbital/APAP/Caffeine #30	9/7/2012	9/9/2012
6858304	Butalbital/APAP/Caffeine #6	8/25/2012	8/29/2012
6858304	Butalbital/APAP/Caffeine #14	8/28/2012	8/29/2012
6856418	Butalbital/APAP/Caffeine #20	8/13/2012	8/28/2012
6856418	Butalbital/APAP/Caffeine #40	7/17/2012	7/20/2012

1	6853753	Butalbital/APAP/Caffeine #30	5/29/2012	5/31/2012
2	6852408	Butalbital/APAP/Caffeine #4	5/15/2012	5/18/2012
3	6852408	Butalbital/APAP/Caffeine #60	5/07/2012	5/09/2012
4	6852408	Butalbital/APAP/Caffeine #16	5/4/2012	5/5/2012
5	6851521	Butalbital/APAP/Caffeine #50	4/18/2012	4/21/2012
6	6841596	Butalbital/APAP/Caffeine #30	10/01/2011	10/15/2011
7	6837330	Butalbital/APAP/Caffeine #10	6/21/2011	6/23/2011
8	6834698	Butalbital/APAP/Caffeine #20	4/20/2011	4/26/2011
9	6829330	Butalbital/APAP/Caffeine #60	12/28/2010	1/4/2010
10	6826816	Butalbital/APAP/Caffeine #60	12/10/2010	12/16/2010
11	6826816	Butalbital/APAP/Caffeine #10	12/2/2010	12/6/2010

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13 **FIRST CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct - Dishonesty)

15 11. Respondent is subject to disciplinary action under section 4301, subdivision (f) in that
 16 she is guilty of unprofessional conduct when she committed acts of moral turpitude, dishonesty,
 17 fraud, deceit, or corruption in the course of relations as a licensee or otherwise. The
 18 circumstances surrounding these violations are set for the in paragraph 10 above and are
 19 incorporated herein as though set forth in full.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Possession of Drugs Obtained through Forged Prescription)

22 12. Respondent is subject to disciplinary action under section 4324 subdivisions (a) and
 23 (b), as well as section 4301 subdivision (j) in that Respondent obtained drugs by falsely signing
 24 the name of another or by falsely making, altering, forging, uttering, publishing, passing or
 25 attempting to pass as genuine any prescription for any drug. The circumstances surrounding these
 26 violations are set for the in paragraph 10 above and are incorporated herein as though set forth in
 27 full.

1 **THIRD CAUSE FOR DISCIPLINE**

2 (False Representation of Self as Physician or Agent of Physician)

3 13. Respondent is subject to disciplinary action under section 4323 in conjunction with
4 Health and Safety Code section 11157 by obtaining or attempting to obtain any drug by falsely
5 representing herself to be a physician or other person who can lawfully prescribe the drug, or
6 falsely representing that she is acting on behalf of a person who can lawfully prescribe the drug, in
7 a telephone or electronic communication with a pharmacist. The circumstances surrounding these
8 violations are set for the in paragraph 10 above and are incorporated herein as though set forth in
9 full.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 (Unprofessional Conduct - Falsifying Documentation)

12 14. Respondent is subject to disciplinary action under section 4301 subdivision (g) as
13 Respondent, a licensee, is guilty of unprofessional conduct in that she made or signed a certificate
14 or document that falsely represented the existence or nonexistence of a state of facts. The
15 circumstances surrounding these violations are set for the in paragraph 10 above and are
16 incorporated herein as though set forth in full.

17 **PRAYER**

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

20 1. Revoking or suspending Pharmacy Technician Registration Number TCH 49093,
21 ~~issued to Linda Lorena Garcia;~~

22 2. Ordering Linda Lorena Garcia to pay the Board of Pharmacy the reasonable costs of
23 the investigation and enforcement of this case, pursuant to Business and Professions Code section
24 125.3; and

25 ////

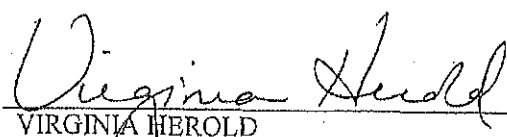
26 ////

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

DATED: 5/28/15



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

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