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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. 5348

**BRITTANI DIANE OVERSTREET
P.O. Box 1016
Loomis, CA 95650**

DEFAULT DECISION AND ORDER

**Pharmacy Technician Registration
No. TCH 107697**

[Gov. Code, §11520]

Respondent.

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FINDINGS OF FACT

1. On or about July 19, 2016, 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. 5348 against Brittani Diane Overstreet (Respondent) before the Board. A true and correct copy of the Accusation is attached as Exhibit A.

2. On or about November 9, 2010, the Board issued Original Pharmacy Technician Registration No. TCH 107697 to Respondent. The Original Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5348. The registration expired on February 29, 2016 and has not been renewed.

3. Business and Professions Code section 118(b) provides that a lapse in licensure does not deprive the Board of authority to institute or continue this disciplinary proceeding.

4. On or about July 27, 2016, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5348, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is:

1 P.O. Box 1016
2 Loomis, CA 95650

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

5 6. On or about August 13, 2016 the Certified Mail envelope with the documents was
6 returned by the U.S. Postal Service marked "Not claimed."

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

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

13 8. Respondent failed to file a Notice of Defense within 15 days after service the
14 Accusation and failed to file a Notice of Defense after a letter warning her a default would be
15 entered was sent to her address of record. Respondent's failure to file a Notice of Defense
16 constitutes a waiver of her right to a hearing on the merits of Accusation No. 5348.

17 9. California Government Code section 11520(a) states, in pertinent part:

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

22 10. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 5348, finds that
27 the charges and allegations in Accusation No. 5348, are separately and severally, found to be true
28 and correct by clear and convincing evidence.

11. Taking official notice of its records, pursuant to Business and Professions Code
section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement
is \$2,637.50 as of September 7, 2016.

DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Brittani Diane Overstreet has
3 subjected her Original Pharmacy Technician Registration No. TCH 107697 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 Original Pharmacy
6 Technician Registration based upon the following violations alleged in the Accusation which are
7 supported by the evidence contained in the Default Decision Evidence Packet in this case:

8 a. Business and Professions Code section 4301(h) Unprofessional Conduct for Self-
9 Administration of Controlled Substances.

10 b. Business and Professions Code section 4301(l) for Unprofessional Conduct for
11 Criminal Conviction Substantially Related.

12 c. Business and Professions Code section 4301(q) Unprofessional Conduct for
13 Subverting or Attempting to Subvert the Board's Investigation.

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ORDER

IT IS ORDERED that Original Pharmacy Technician Registration No. TCH 107697, issued to Respondent Brittani Diane Overstreet, 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 November 23, 2016.

It is so ORDERED on October 24, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

12428673.DOCX
DOJ Matter ID:SA2014119237
Attachment: Exhibit A: Accusation

Exhibit A

Accusation

(BRITTANI DIANE OVERSTREET)

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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5348

12 **BRITTANI DIANE OVERSTREET**
13 **P.O. Box 1016**
Loomis, CA 95650

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
15 **107697**

Respondent.

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 ("Board"), Department of Consumer Affairs.

21 2. On or about November 9, 2010, the Board issued Pharmacy Technician Registration
22 Number TCH 107697 to Brittani Diane Overstreet ("Respondent"). The pharmacy technician
23 registration was in full force and effect at all times relevant to the charges brought herein but
24 expired on February 29, 2016 and has not been renewed.

25 **JURISDICTION/STATUTORY PROVISIONS**

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 unless otherwise indicated.

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4. Section 4300 states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

5. Section 4300.1 states:

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

6. Section 4301 states, in pertinent part:

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

....

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

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board . . .

1 7. Health and Safety Code section 11170 states that "[n]o person shall prescribe,
2 administer, or furnish a controlled substance for himself."

3 COST RECOVERY

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

8 DRUGS

9 9. "Methamphetamine" is a Schedule II controlled substance as designated by Health
10 and Safety Code section 11055, subdivision (d)(2).

11 FACTUAL ALLEGATIONS

12 10. On or about April 14, 2014, at approximately 0038 hours, a Roseville Police Officer
13 was on duty was driving through a Walmart parking lot when he observed a vehicle parked in one
14 of the stalls occupied by a male and Respondent who exited the vehicle. The officer learned the
15 vehicle belonged to Respondent who subsequently gave consent to search her vehicle. When
16 asked, Respondent denied possessing narcotics or paraphernalia in the vehicle but then admitted
17 to using "meth" in the past and had started "rehab". The officer searched the vehicle and located
18 a backpack on the front passenger floorboard that contained diagonal cutters, two screwdrivers, a
19 metal pry bar, and a black glove. The officer found a red hacksaw and a metal pry bar in the
20 trunk. Respondent claimed that the tools belonged to her and were used for "scrapping for parts
21 and things to sell". Respondent and the male subject were arrested for possession of burglary
22 tools.

23 11. On or about September 23, 2014, the Board notified Respondent by letter that an
24 investigation was initiated because of the April 14, 2014 arrest. Respondent was requested to
25 submit a written explanation by October 10, 2014, regarding the admitted use of
26 methamphetamine and drug rehabilitation. Respondent was warned that failure to respond to the
27 letter may result in disciplinary action against her license pursuant to section 4301(q). The Board
28 received documentation showing that the letter was delivered to Respondent's address of record

1 on September 29, 2014. Respondent failed to comply with the conditions delineated in the
2 Board's letter or submit a written explanation of her arrest.

3 12. On or about March 22, 2015, at approximately 0258 hours, a Rocklin Police Officer
4 while on duty observed a Honda Accord traveling south in front of him on Pacific Street in
5 Rocklin. The officer noted the vehicles' right and center brake lights were not functioning and
6 initiated traffic stop. Respondent was the driver of the vehicle and was directed by the officer to
7 exit the vehicle. Respondent had objective symptoms of being under the influence of a controlled
8 substance, including slurred, raspy speech and constricted pupils. Respondent also appeared
9 disoriented. The officer searched the vehicle and located a capped hypodermic syringe, several
10 knives, and various burglary tools. When asked about the syringe, Respondent admitted she used
11 methamphetamine regularly, she snorted or used methamphetamine that night, and that she
12 regularly injected or snorted methamphetamine. Respondent failed field sobriety tests and was
13 arrested for violating Vehicle Code section 23152(e) (driving a vehicle while under the influence
14 of drugs). During the booking process at the jail, Respondent provided a blood sample and
15 showed the officer several fresh injection points.

16 13. On or about July 17, 2015, in Placer County Superior Court, Case No. 62-139388,
17 Respondent was charged with violating Vehicle Code section 23512(e), Health and Safety Code
18 section 11550(a) (unlawful use of controlled substances), and Penal Code section 466 (possession
19 of burglary tools). On or about December 1, 2015, Respondent was convicted by the court based
20 on her plea of no contest to violating Vehicle Code section 23152(e).

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Self-Administration of Controlled Substances)**

23 14. Respondent is subject to disciplinary action pursuant to section 4301 (h), for
24 unprofessional conduct, in that Respondent self-administered the controlled substance
25 methamphetamine and used the drug to an extent or in a manner dangerous or injurious to herself
26 and others, as set forth in paragraphs 10 and 12 above.

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