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8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against:	Case No. 5357	
12	in the whatter of the weedsation riganist.	Case 110. 3337	
13	PAMELA SUE DOXEY DONALDSON	DEFAULT DECISION AND ORDER	
14	32698 Clearvail Drive Temecula, CA 92592	DEFICE DECISION AND ORDER	
15	Tollebouring Cra 2000	[Gov. Code, §11520]	
16	Pharmacy Technician Registration No. TCH 22260		
17	and and set V		
18	Respondent.		
19			
20	<u>FINDING</u> :	S OF FACT	
21	1. On or about December 21, 2015, Co.	mplainant Virginia K. Herold, in her official	
22	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,		
23	filed Accusation No. 5357 against Pamela Sue Doxey Donaldson (Respondent) before the Board		
24	of Pharmacy. (Accusation attached as Exhibit A.)		
25	2. On or about May 7, 1997, the Board of Pharmacy (Board) issued Pharmacy		
26	Technician Registration No. TCH 22260 to Respondent. The Pharmacy Technician Registration		
27	expired on April 30, 2015, and has not been renewed.		
28			
	(PAMELA SUE DOXEY DONALDSON) DEFAULT DECISION & ORDER Case No. 5357		
		10,000	

3. On or about January 4, 2016, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5357, 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:

32698 Clearvail Drive Temecula, CA 92592.

- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.
 - 5. Government Code section 11506 states, in pertinent part:
 - (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.
- 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5357.
 - 7. 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.
- 8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the 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. 5357, finds that the charges and allegations in Accusation No. 5357, are separately and severally, found to be true and correct by clear and convincing evidence.

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 is \$1,008.80 as of January 25, 2016.

DETERMINATION OF ISSUES

- 1. Based on the foregoing findings of fact, Respondent Pamela Sue Doxey Donaldson has subjected her Pharmacy Technician Registration No. TCH 22260 to discipline.
 - 2. The agency has jurisdiction to adjudicate this case by default.
- 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:
- a. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (1) of the Code in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a licensee. On or about September 25, 2015, in a criminal proceeding entitled *People v. Donaldson*, in California Superior Court, Riverside County, Case Number SWM1409634, Respondent was convicted on her plea of guilty of violating Penal Code section 487, subdivision (a), grand theft, a misdemeanor.
- b. Respondent is subject to disciplinary action under Code section 4301, subdivision (h) in that Respondent administered to herself a controlled substance or used a dangerous drug to the extent or in a manner as to be dangerous or injurious to herself or to the extent that the use impaired her ability to conduct with safety to the public the practice authorized by the license.
- c. Respondent is subject to disciplinary action under Code section 4301, subdivision (j) in that Respondent violated Code section 4060 and Health and Safety Code section 11350, subdivision (a), laws regulating controlled substances and dangerous drugs.
- d. Respondent is subject to disciplinary action under section 4301, subdivision (p), in that Respondent committed an act that would have warranted denial of a license by stealing the controlled substance Soma, an act enumerated in Code section 480, subdivision (a)(2), which is cause for denial of a license to an applicant who committed an act of dishonesty with the intent to substantially benefit herself or another.

1	e. Respondent is subject to disciplinary action under Code section 4301, subdivision (
2	in that Respondent committed theft, an act of moral turpitude, dishonesty, fraud, deceit, or		
3	corruption.		
4	<u>ORDER</u>		
5	IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 22260, heretofore		
6	issued to Respondent Pamela Sue Doxey Donaldson, is revoked.		
7	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a		
8	written motion requesting that the Decision be vacated and stating the grounds relied on within		
9	seven (7) days after service of the Decision on Respondent. The agency in its discretion may		
10	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.		
11	This Decision shall become effective at 5:00 p.m. on April 11, 2016.		
12	It is so ORDERED on March 11, 2016.		
13	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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16	Agheforting		
17			
18	ByAmy Gutierrez, Pharm.D.		
19	Board President		
20	81248710.DOC		
21	DOJ Matter ID:SD2015802808		
22	Attachment: Exhibit A: Accusation		
23			
24			
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26			
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Exhibit A

Accusation

1	KAMALA D. HARRIS		
2	Attorney General of California GREGORY J. SALUTE		
3	Supervising Deputy Attorney General ADRIAN R. CONTRERAS		
4	Deputy Attorney General State Bar No. 267200		
5	600 West Broadway, Suite 1800 San Diego, CA 92101		
6	P.O. Box 85266 San Diego, CA 92186-5266		
7	Telephone: (619) 645-2634 Facsimile: (619) 645-2061		
8	E-mail: Adrian.Contreras@doj.ca.gov Attorneys for Complainant		
9	BEFORE THE		
10	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
11	STATE OF C.	ALIFORNIA	
12	In the Matter of the Accusation Against:	Case No. 5357	
13	PAMELA SUE DOXEY DONALDSON 32698 Clearvail Drive		
14		ACCUSATION	
15	Pharmacy Technician Registration No. TCH 22260		
16	Respondent.		
17	Respondent		
18	·		
19	Complainant alleges:		
20	PART	TIES	
21	Virginia Herold (Complainant) brings	this Accusation solely in her official capacity	
22	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
23	2. On or about May 7, 1997, the Board of Pharmacy issued Pharmacy Technician		
24	Registration Number TCH 22260 to Pamela Sue Doxey Donaldson (Respondent). The Pharmacy		
25	Technician Registration expired on April 30, 2015, and has not been renewed.		
26	<i>III</i>		
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ļ	[[PAMELA SUE DOXEY DONALDSON) ACCUSATION	

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JURISDICTION

- 3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
 - 4. Section 4300 of the Code states:
 - "(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.

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- "(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."
 - 5. Section 4300.1 of the Code 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."

STATUTORY PROVISIONS

6. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

11, . .

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

"[3](B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

7. Section 482 of the Code states:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- "(a) Considering the denial of a license by the board under Section 480; or
- "(b) Considering suspension or revocation of a license under Section 490.

"Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

- 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
 - 9. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the

crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

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

10. Section 4301 of the Code states:

"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:

"...

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

H . . .

"(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.

". .

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

"...

"(I) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

"...

"(p) Actions or conduct that would have warranted denial of a license.

11. . . . 11

11. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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

REGULATORY PROVISIONS

- 12. California Code of Regulations, title 16, section 1769, states:
- "
- "(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:
 - "(1) Nature and severity of the act(s) or offense(s).
 - "(2) Total criminal record.
 - "(3) The time that has elapsed since commission of the act(s) or offense(s).
- "(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
 - "(5) Evidence, if any, of rehabilitation submitted by the licensee.
 - 13. California Code of Regulations, title 16, section 1770, states:

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

COSTS

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

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DRUGS

15. Soma is a brand name of Carisoprodol, a muscle relaxant. It is a Schedule IV controlled substance and a dangerous drug pursuant to Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(September 25, 2015, Criminal Conviction for Grand Theft on November 4, 2014)

- 16. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (l) of the Code in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a licensee in the following respect:
- 17. On or about September 25, 2015, in a criminal proceeding entitled *People v. Donaldson*, in California Superior Court, Riverside County, case number SWM1409634, Respondent was convicted on her plea of guilty of violating Penal Code section 487, subdivision (a), grand theft, a misdemeanor. As a result of a plea agreement, one count of violating Health and Safety Code section 11350, unlawful possession of the controlled substance carisoprodol, a misdemeanor, was dismissed.
- 18. As a result of the conviction, on or about September 25, 2015, Respondent was sentenced to three years summary probation and ordered to pay restitution and to have no direct or indirect contact with Rite Aid. By way of a December 29, 2014, order under Penal Code section 23, Respondent was further prohibited as a term of probation from engaging in any activity for which a pharmacy technician registration is required.
- 19. The facts that led to the conviction are that on or about November 3, 2014, an officer with the Murrieta Police Department responded to a radio call of theft at a Rite Aid pharmacy in Murrieta. The officer arrived and spoke with the asset protection district manager of Rite Aid, who advised that they had been investigating the mysterious shortage of Soma pills from their store since the previous week. As a result, they had installed covert cameras in the pharmacy. They reviewed the cameras on November 1, 2014, and saw Respondent, a pharmacy technician at the Rite Aid, steal Soma pills. Further review of the surveillance showed Respondent stealing over 100 Soma pills valued over \$1000.00.

20. The officer then spoke with Respondent. When the officer asked if she knew why the police were there, Respondent said, "I need help because I am addicted to pain pills. I've been taking them from the pharmacy." Respondent admitted she had Soma in her purse. The officer searched Respondent's purse and saw, among other medications, two Soma pills.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Use of a Controlled Substance in a Dangerous Manner)

- 21. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 16-20.
- 22. Respondent is subject to disciplinary action under Code section 4301, subdivision (h) in that Respondent administered to herself a controlled substance or used a dangerous drug to the extent or in a manner as to be dangerous or injurious to herself or to the extent that the use impaired her ability to conduct with safety to the public the practice authorized by the license.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Violation of Laws Regulating Controlled Substances and Dangerous Drugs)

- 23. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 16-22.
- 24. Respondent is subject to disciplinary action under Code section 4301, subdivision (j) in that Respondent violated Code section 4060 and Health and Safety Code section 11350, subdivision (a), laws regulating controlled substances and dangerous drugs.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Act Warranting Denial of Licensure)

- 25. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 16-24.
- 26. Respondent is subject to disciplinary action under section 4301, subdivision (p), in that Respondent committed an act that would have warranted denial of a license by stealing the controlled substance Soma, an act enumerated in Code section 480, subdivision (a)(2), which is

1	cause for denial of a license to an applicant who committed an act of dishonesty with the intent to			
2	substantially benefit herself or another.			
3	FIFTH CAUSE FOR DISCIPLINE			
4	(Unprofessional Conduct-Act of Moral Turpitude or Dishonesty)			
5	27. Complainant re-alleges and incorporates by reference the allegations set forth above			
6	in paragraphs 16-26.			
7	28. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)			
8	in that Respondent committed theft, an act of moral turpitude, dishonesty, fraud, deceit, or			
9	corruption.			
10	PRAYER			
11	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,			
12	and that following the hearing, the Board of Pharmacy issue a decision:			
13	1. Revoking or suspending Pharmacy Technician Registration Number TCH 22260,			
14	issued to Pamela Sue Doxey Donaldson;			
15	2. Ordering Pamela Sue Doxey Donaldson to pay the Board of Pharmacy the reasonable			
16	costs of the investigation and enforcement of this case, pursuant to Business and Professions Code			
17	section 125.3; and			
18	3. Taking such other and further action as deemed necessary and proper.			
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20				
21				
22	DATED: 12/21/15 Jugino Heid			
23	VIRGINIA HEROLD Executive Officer			
24	Board of Pharmacy Department of Consumer Affairs			
25	State of California Complainant			
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