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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. 3392

TAMAR GILDA NALBANDBASHIAN
16620 Leggett St.
North Hills, CA 91343

DEFAULT DECISION AND ORDER

Pharmacy Technician Registration
No. TCH 67784

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about January 11, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3392 against Tamar Gilda Nalbandbashian (Respondent) before the Board of Pharmacy.

2. On or about February 28, 2006, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 67784 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein, and will expire on November 30, 2011, if not renewed.

3. On or about February 2, 2010, Janice Garcia, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3392, a Statement to Respondent, two copies of a form Notice of Defense, a Request for Discovery, and copies of Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with

1 the Board: 16620 Leggett St., North Hills, CA 91343. Copies of the Accusation are attached as
2 exhibit A, and are incorporated herein by reference.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c).

5 5. Government Code section 11506 states, in pertinent part:

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

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3392.

12 7. California Government Code section 11520 states, in pertinent part:

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

16 8. Pursuant to its authority under Government Code section 11520, the Board finds
17 Respondent is in default. The Board will take action without further hearing and, based on the
18 evidence on file herein, finds that the allegations in Accusation No. 3392 are true.

19 9. The total costs for investigation and enforcement in connection with the Accusation
20 are \$3,823.00 as of May 3, 2010.

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22 DETERMINATION OF ISSUES

23 1. Based on the foregoing findings of fact, Respondent Tamar Gilda Nalbandbashian has
24 subjected her Pharmacy Technician License No. TCH 67784 to discipline.

25 2. A copy of the Accusation is attached.

26 3. The agency has jurisdiction to adjudicate this case by default.

27 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
28 License based upon the following violations alleged in the Accusation:

1 a. In violation of Business and Professions Code sections 4301(l), Respondent was
2 convicted on her plea of nolo contendere of violating Penal Code section 487 (a) (grand theft) in
3 the case entitled, *People of the State of California v. Tamar Gilda Nalbandbashian* in a Los
4 Angeles Superior Court. On or around April 4, 2008, while she was employed as a pharmacy
5 technician at Longs Drug Pharmacy ("Longs"), Respondent was caught on surveillance stealing
6 numerous pills which were later identified as Hydrocodone, Alprazolam and Lexapro;

7 b. In violation of Business and Professions Code section 4301(f), based on the conduct
8 described in paragraph 4(a) above, Respondent committed an act involving moral turpitude,
9 dishonesty, fraud, deceit and/or corruption in the course of relations as a licensee as set forth in
10 paragraph 4(a);

11 c. In violation of Business and Professions Code section 4301(j), based on the conduct
12 described in paragraph 4(a) above, Respondent violated statutes of this state regulating controlled
13 substances and drugs;

14 d. In violation of Business and Professions Code section 4060, based on the conduct
15 described in paragraph 4(a) above, Respondent furnished drugs without a prescription;

16 e. In violation of Health and Safety Code section 11170, based on the conduct described
17 in paragraph 4(a) above, Respondent furnished drugs to herself;

18 f. In violation of Health and Safety Code section 11171 of the Health and Safety Code,
19 based on the conduct described in paragraph 4(a) above, Respondent furnished controlled
20 substances without authorization.

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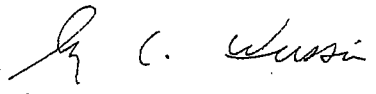
ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 67784, heretofore issued to Respondent Tamar Gilda Nalbandbashian, 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 November 18, 2010.

It is so ORDERED October 19, 2010.



STANLEY C. WEISSER, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

Attachment: Exhibit A: Accusation No. 3392

Exhibit A
Accusation No. 3392

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 KIMBERLEY J. BAKER-GULLEMET
Deputy Attorney General
4 State Bar No. 242920
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 In the Matter of the Accusation Against:

Case No. 3392

11 **TAMAR GILDA NALBANDBASHIAN**
12 16620 Leggett St.
North Hills, CA 91343
13 Pharmacy Technician Registration
No. TCH 67784

A C C U S A T I O N

14 Respondent.

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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 February 28, 2006, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 67784 to Tamar Gilda Nalbandbashian (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, 2009, unless renewed.

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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 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.

...

"(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.

...

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

5. 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

1 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
2 labeled with the name and address of the supplier or producer.

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

6 6. Section 487 of the Penal Code states, in pertinent part:

7 "Grand theft is theft committed in any of the following cases: (a) When the money, labor, or
8 real or personal property taken is of a value exceeding four hundred dollars (\$400), except as
9 provided in subdivision (b)."

10 7. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
11 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
12 disciplinary action during the period within which the license may be renewed, restored, reissued
13 or reinstated.

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

18 **CONTROLLED SUBSTANCES/ DANGEROUS DRUGS**

19 9. Hydrocodone/ Acetaminophen (APAP) (generic for Vicodin, Norco and/or Lorcet) is
20 a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4)
21 and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

22 10. Alprazolam (generic for Xanax) is a Schedule IV controlled substance as designated
23 by Health and Safety Code section 11057(d)(1) and is categorized as a dangerous drug pursuant
24 to Business and Professions Code section 4022.

25 11. Escitalopram (generic for Lexapro) is categorized as a dangerous drug pursuant to
26 Business and Professions Code section 4022.

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1 12. Section 11164 of the Health and Safety Code states:

2 "Except as provided in Section 11167, no person shall prescribe a controlled substance, nor
3 shall any person fill, compound, or dispense a prescription for a controlled substance, unless it
4 complies with the requirements of this section."

5 13. Section 11170 of the Health and Safety Code states:

6 "No person shall prescribe, administer, or furnish a controlled substance for himself."

7 14. Section 11171 of the Health and Safety Code states:

8 "No person shall prescribe, administer, or furnish a controlled substance except under the
9 conditions and in the manner provided by this division."

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Substantially Related Conviction)**

12 15. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that
13 she was convicted of a crime substantially related to the qualifications, functions and duties of a
14 licensee as follows:

15 16. On or about July 15, 2008, in the Superior Court of California, County of
16 Los Angeles, in the case entitled, *People of the State of California v. Tamar Gilda*
17 *Nalbandbashian* (Super Ct. Los Angeles County, 2008, No. LA058946), Respondent was
18 convicted on her plea of nolo contendere of violating Penal Code section 487, subdivision (a)
19 (grand theft), a felony.

20 17. The circumstances of the crime are that in or around March 2008, Respondent was
21 employed as a pharmacy technician at Longs Drug Pharmacy ("Longs"). At that time, she had
22 been employed at the pharmacy since 2006. On or about March 14, 2008, the Longs Loss
23 Prevention Department discovered that Respondent had been stealing hydrocodone. The theft
24 had been captured on video surveillance.

25 18. On or about April 4, 2008, the Los Angeles County Sheriff's Department set up a
26 surveillance of the pharmacy and radio communication in the Longs parking lot. A Longs Loss
27 Prevention Agent placed "electronic article surveillance" (EAS) tags inside eight 500 count 325

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1 milligram (mg) hydrocodone pill bottles. The tags were designed to trigger the store's security
2 alarm system if someone were to steal one of the bottles.

3 19. Respondent came into work on April 4, 2008. During the later part of Respondent's
4 shift, one of the Long's Loss Prevention agents observed Respondent remove a hydrocodone
5 bottle that contained an EAS tag and place it inside a "tote" used to restock supply shelves.
6 Between 3:00 p.m. and the end of her shift at 6:00 p.m., Respondent was observed moving the
7 restocking tote into different aisles for no apparent reason and turning her back to the camera.
8 Just prior to the end of her shift, Respondent was observed removing her work smock and folding
9 it. Respondent then walked out of the store holding the folded smock.

10 20. After Respondent left the store, the store manager recovered the hydrocodone bottle
11 that Respondent had originally placed in the restocking tote. The bottle was empty and it had
12 been placed in the trash.

13 21. As Respondent approached her car, a Sheriff's deputy approached her and identified
14 himself. As Respondent turned to face the deputy, she placed her smock on the front seat of her
15 car. The deputy told Respondent that he was conducting a theft investigation and asked
16 Respondent if she had any pills on her person or in her car. Respondent replied that she had pills
17 in her pockets and gave the deputy permission to search her vehicle. The deputy then retrieved
18 Respondent's smock from the front seat of the car and recovered from the smock two large
19 prescription bottles containing what appeared to be hydrocodone. The deputy found one of the
20 EAS tags inside one of the bottles.¹ With the help of a female Loss Prevention agent, the deputy
21 searched Respondent's person and recovered numerous pills from her pants pockets. A Long's
22 pharmacist later identified the pills as Hydrocodone, Alprazolam and Lexapro.

23 22. Respondent also admitted to the deputy that she had stolen additional pills before
24 lunch and that they were inside of her car. The deputy recovered a large "zip loc" bag containing
25 two different types of pills from the center console. The pills were later identified as
26 Hydrocodone and Alprazolam.

27 ¹ Though Respondent walked out of the store with the bottle containing an EAS tag, the
28 tag apparently failed to go off when Respondent exited the store.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Commission of an Act Involving Moral Turpitude, Dishonesty, Fraud Deceit and/or**
3 **Corruption)**

4 23. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
5 Code in that she committed an act involving moral turpitude, dishonesty, fraud, deceit and/or
6 corruption in the course of relations as a licensee as set forth in paragraphs 15-22 above.
7 Complainant refers to, and by this reference incorporates, the allegations set forth above in
8 paragraphs 15-22, as though set forth fully.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Violation of Statutes Regulating Controlled Substances and Dangerous Drugs)**

11 24. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
12 Code in that she violated statutes of this state regulating controlled substances and drugs as set
13 forth in paragraphs 15-22 above. Complainant refers to, and by this reference incorporates, the
14 allegations set forth above in paragraphs 15-22, as though set forth fully.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Furnishing Drugs Without a Prescription)**

17 25. Respondent is subject to disciplinary action under section 4060 of the Code in that
18 she furnished drugs without a prescription as set forth in paragraphs 15-22 above. Complainant
19 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 15-22,
20 as though set forth fully.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Furnishing Drugs to Self)**

23 26. Respondent is subject to disciplinary action under section 11170 of the Health &
24 Safety Code in that she furnished drugs to herself as set forth in paragraphs 15-22 above.
25 Complainant refers to, and by this reference incorporates, the allegations set forth above in
26 paragraphs 15-22, as though set forth fully.

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SIXTH CAUSE FOR DISCIPLINE

(Unauthorized Furnishing of a Controlled Substance)

27. Respondent is subject to disciplinary action under section 11171 of the Health & Safety Code in that she furnished controlled substances without authorization as set forth in paragraphs 15-22 above. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 15-22, as though set forth fully.

PRAYER

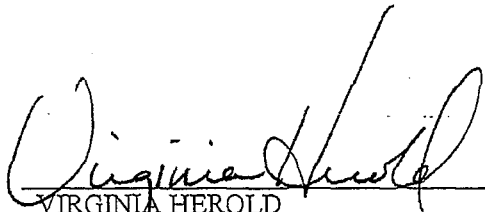
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 67784, issued to Tamar Gilda Nalbandbashian.

2. Ordering Tamar Gilda Nalbandbashian to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 1/11/10


VIRGINIA HEROLD

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

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