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

11 In the Matter of the Accusation Against:

Case No. 3599

12 **DEANNA MAY JOHNSON**
13 **852 Lattin Rd.**
14 **Biggs, CA. 95917**
15 **Original Pharmacy Technician Registration**
16 **No. TCH 87674**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

17 FINDINGS OF FACT

18 1. On or about March 30, 2010, Complainant Virginia Herold, in her official capacity as
19 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
20 Accusation No. 3599 against Deanna Johnson (Respondent) before the Board of Pharmacy.

21 2. On or about November 26, 2008, the Board of Pharmacy (Board) issued Pharmacy
22 Technician Registration No. TCH 87674 to Respondent. The Pharmacy Technician Registration
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 August 31, 2010, unless renewed.

25 3. On or about April 19, 2010, Christina A. Pek, an employee of the Department of
26 Justice, served by Certified and First Class Mail a copy of the Accusation No. 3599, Statement to
27 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
28 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

1 852 Lattin Rd.
2 Biggs, Ca. 95917

3 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

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

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

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent
8 files a notice of defense, and the notice shall be deemed a specific denial of all parts
9 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.

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. 3599.

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
14 hearing, the agency may take action based upon the respondent's express admissions
15 or upon other evidence 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. 3599 are true.

19 9. The total cost for investigation and enforcement in connection with the accusation are
20 \$2,856.00 as of August 1, 2010.

21 DETERMINATION OF ISSUES

22 1. Based on the foregoing findings of fact, Respondent Deanna May Johnson has
23 subjected her Pharmacy Technician Registration No. TCH 87674 to discipline.

24 2. A copy of the Accusation is attached.

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

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

28 ///

1 a. Business and Professions Code section 4301(f)(Moral Turpitude, Dishonest, Fraud or
2 Deceit).

3 b. Business and Professions Code section 4303(j)(o) (Controlled Substance Violation
4 Business and Professions Code section 4060 and Health and Safety Code section 11377(a)).

5 c. Business and Professions Code section 4059 and Health and Safety Code section
6 11352 (Controlled Substance Violation).

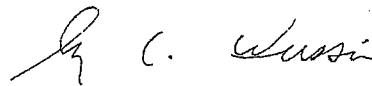
7 ORDER

8 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 87674, heretofore
9 issued to Respondent Deanna May Johnson, 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 on January 7, 2011.

15 It is so ORDERED December 8, 2010.

16 

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18

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

21 10600133.DOC
22 DOJ docket number:SA2010100239

23 Attachment:

24 Exhibit A: Accusation No.3599
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Exhibit A
Accusation No. 3599

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In the Matter of the Accusation Against:

DEANNA MAY JOHNSON
852 Lattin Rd.
Biggs, CA. 95917
Original Pharmacy Technician Registration No. TCH 87674

Respondent.

Case No. 3599

ACCUSATION

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
2. On or about November 26, 2008, the Board of Pharmacy issued Original Pharmacy Technician Registration Number TCH 87674 to Deanna May Johnson (Respondent). The Original Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2010, unless renewed.

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.

1 ///

2 4. Section 4060 of the Code states:

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

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

17 5. Section 4300 of the Code states:

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

19 ...

20 6. Section 4301 of the Code states:

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

25 ...

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

1 ...
2 "(j) The violation of any of the statutes of this state, or any other state, or of the United
3 States regulating controlled substances and dangerous drugs.

4 ...
5 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
6 violation of or conspiring to violate any provision or term of this chapter or of the applicable
7 federal and state laws and regulations governing pharmacy, including regulations established by
8 the board or by any other state or federal regulatory agency.

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

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

17 FIRST CAUSE FOR DISCIPLINE

18 (MORAL TURPITUDE, DISHONESTY, FRAUD OR DECEIT)

19 9. Respondent is subject to disciplinary action under section 4301(f) in that Respondent
20 between November 26, 2008 and March 31, 2009 took at least 750 tablets of Norco, a
21 hydrocodone-containing medication, a schedule III controlled substance by creating fraudulent
22 and illegal entries for prescriptions for herself and her husband Brian Johnson and picking up the
23 prescriptions as follows:

24 a. Deanna Johnson, Rx 1155417 120 tablets Norco each from Olive Pharmacy,
25 Oroville, Ca. on 3/10/09, 3/16/09, 3/27/09.

26 b. Deanna Johnson Rx 13251470 30 tablets each from Robert's Pharmacy, Oroville, Ca.
27 on 11/26/08, 11/29/08, 12/1/08, 12/4/08, 1/2/09.

28

1 c. Brian Johnson Rx 135216 60 tablets each from Olive Pharmacy on 12/4/08, 1/2/09;
2 Rx 1360364 60 tablets on 2/23/09.

3 d. Brian Johnson Rx 1325216 60 tablets each from Robert's Pharmacy Oroville, Ca. on
4 12//4/08, 1/2/09.

5 SECOND CAUSE FOR DISCIPLINE
6 (CONTROLLED SUBSTANCE VIOLATION)

7 10. Respondent is subject to disciplinary action under section 4303(j),(o) in that
8 Respondent between November 16, 2008 and March 31, 2009 possessed without a valid
9 prescription a controlled substance in violation of section 4060 and Health and Safety Code
10 section 11377(a), to wit: 750 tablets of Norco, a hydrococodne containing medication, a schedule
11 III controlled substance which she diverted from Olive Pharmacy and Robert's Pharmacy as
12 specified in paragraph 9 above.

13 THIRD CAUSE FOR DISCIPLINE
14 (CONTROLLED SUBSTANCE VIOLATION)

15 11. Respondent is subject to disciplinary action under section in that she illegally
16 furnished a dangerous drug and controlled substance without a valid prescription to Brian
17 Johnson as specified in subparagraphs c and d above in violation of section 4059 and Health and
18 Safety Code section 11352.

19 PRAYER

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

22 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH
23 87674, issued to Deanna May Johnson .

24 2. Ordering Deanna May Johnson to pay the Board of Pharmacy the reasonable costs of
25 the investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

27 ///

28 ///

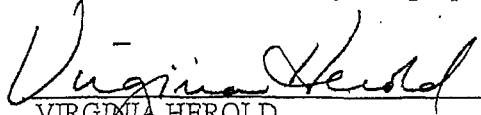
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3. Taking such other and further action as deemed necessary and proper.

DATED: 3/30/10



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

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