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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. 4259

**TAMARA MAE KAEFER  
336 McCabe Drive  
Greensburg, PA 15301  
Pharmacy Technician License No. TCH  
5111**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about June 1, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4259 against Tamara Mae Kaefer (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about March 2, 1993, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 5111 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4259 and expired on August 31, 2012. This lapse in licensure, pursuant to Business and Professions Code section 118(b), does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

3. On or about June 8, 2012, Respondent was served by regular and certified mail copies of the Accusation No. 4259, 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,

1 is required to be reported and maintained with the Board. Respondent's address of record was  
2 and is:

3 336 McCabe Drive  
4 Greensburg, PA 15301.

5 4. Service of the Accusation was effective as a matter of law under the provisions of  
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
7 124.

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

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

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4259.

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

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds  
22 Respondent is in default. The Board will take action without further hearing and, based on the  
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
24 taking official notice of all the investigatory reports, exhibits, and statements contained therein on  
25 file at the Board's offices regarding the allegations contained in Accusation No. 4259, finds that  
26 the charges and allegations in Accusation No. 4259 are, separately and severally, found to be true  
27 and correct by clear and convincing evidence.

28 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 \$5,212.50 as of August 3, 2012.

DETERMINATION OF ISSUES

1           1.     Based on the foregoing findings of fact, Respondent Tamara Mae Kaefer has  
2 subjected her Pharmacy Technician License No. TCH 5111 to discipline.

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

4           3.     The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
5 License based upon the following violations alleged in the Accusation which are supported by the  
6 evidence contained in the Default Decision Evidence Packet in this case:

7           a.     Violation of section 4301(f) of the Business and Professions Code (Code) in that  
8 Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption  
9 in falsifying prescriptions for controlled substances, filling the prescriptions, and charging them  
10 to patients' insurance companies.

11          b.     Violation of section 4301(j) of the Code by violating section 11170 of the California  
12 Health and Safety Code by prescribing and furnishing a controlled substance to herself.

13          c.     Violation of sections 4301(j) and (o) of the Code in that Respondent violated section  
14 4059(a) of the Code by furnishing a dangerous drug to another individual without a physician's  
15 prescription.

16          d.     Violation of sections 4301(j) and (o) of the Code in that Respondent violated section  
17 4060 of the Code by possessing a controlled substance without a physician's prescription.

18          e.     Violation of sections 4301(j) and (o) of the Code in that Respondent violated section  
19 4324 of the Code by falsely passing as genuine prescriptions for controlled substances.

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ORDER

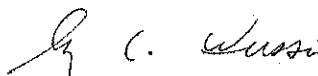
IT IS ORDERED that Pharmacy Technician License No. TCH 5111, heretofore issued to Respondent Tamara Mae Kaefer, is revoked.

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 19, 2012.

It is so ORDERED ON October 19, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
STANLEY C. WEISSER  
Board President

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 BRETT A. KINGSBURY  
Deputy Attorney General  
4 State Bar No. 243744  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1192  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:  
11  
12 **TAMARA MAE KAEFER**  
336 McCabe Drive  
13 Greensburg, PA 15301  
14 **Pharmacy Technician License No. TCH**  
5111  
15 Respondent.

Case No. 4259

**A C C U S A T I O N**

16  
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, 1993, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 5111 to Tamara Mae Kaefer (Respondent). The Pharmacy Technician  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on August 31, 2012, unless renewed.

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2 JURISDICTION

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

6 4. Section 4300 of the Code states:

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

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

11 "(1) Suspending judgment.

12 "(2) Placing him or her upon probation.

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

14 "(4) Revoking his or her license.

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

17 ". . . .

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

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

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1           "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
2 prescription or furnished pursuant to Section 4006."

3           9.     Section 4059(a) of the Code provides, in pertinent part:

4           "A person may not furnish any dangerous drug, except upon the prescription of a physician,  
5 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to  
6 Section 3640.7. . . ."

7           10.    Section 4060 of the Code states:

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

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

22           11.    Section 4324 of the Code states:

23           "(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,  
24 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any  
25 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the  
26 state prison, or by imprisonment in the county jail for not more than one year.

27           . . . ."

1 12. California Health and Safety Code § 11170 states: "No person shall prescribe,  
2 administer, or furnish a controlled substance for himself."

3 **COSTS**

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

8 **DRUGS**

9 14. Norco and Vicodin are among the brand names for compounds of varying dosages of  
10 acetaminophen (aka APAP) and hydrocodone, are Schedule III controlled substances as  
11 designated by Health and Safety Code section 11056(e)(4), and are dangerous drug as designated  
12 by Business and Professions Code section 4022. The varying compounds are also known  
13 generically as Hydrocodone with APAP. These are all narcotic drugs.

14 **BACKGROUND**

15 15. During 2010, Respondent worked as a pharmacy technician at Safeway Pharmacy.  
16 Over the course of her employment, she obtained a pharmacist's passcode and used it to falsify at  
17 least 50-100 prescriptions for controlled substances, including some for Vicodin and Norco,  
18 which she filled and charged to patients' insurance companies. She provided some of these  
19 prescription medications to another individual so that he could sell them.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Act of Deceit or Corruption)**

22 16. Respondent is subject to disciplinary action under section 4301(f) of the Code in that  
23 Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Self-Prescribing)**

26 17. Respondent is subject to disciplinary action under section 4301(j) of the Code in that  
27 Respondent violated section 11170 of the California Health and Safety Code. The circumstances  
28 are that Respondent prescribed and furnished a controlled substance to herself.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Illegal Furnishing of Controlled Substances)**

3 18. Respondent is subject to disciplinary action under sections 4301(j) and (o) of the  
4 Code in that Respondent violated section 4059(a) of the Code. The circumstances are that  
5 Respondent furnished a dangerous drug to another individual without a physician's prescription.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Illegal Possession of Controlled Substances)**

8 19. Respondent is subject to disciplinary action under sections 4301(j) and (o) of the  
9 Code in that Respondent violated section 4060 of the Code. The circumstances are that  
10 Respondent possessed a controlled substance without a physician's prescription.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Forgery)**

13 20. Respondent is subject to disciplinary action under section 4301(j) and (o) of the Code  
14 in that Respondent violated section 4324 of the Code. The circumstances are that Respondent  
15 falsely passed as genuine various prescriptions.

16 **PRAYER**

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

- 19 1. Revoking or suspending Pharmacy Technician License Number TCH 5111, issued to
- 20 Tamara Mae Kaefer;
- 21 2. Ordering Tamara Mae Kaefer to pay the Board of Pharmacy the reasonable costs of
- 22 the investigation and enforcement of this case, pursuant to Business and Professions Code section
- 23 125.3;

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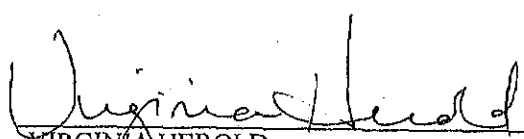
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3. Taking such other and further action as deemed necessary and proper.

DATED: 6/1/12

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

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