

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

THUCUC THI TRAN
3112 Ascot Court
Richmond, CA 94806
0Pharmacy Technician Registration No.
TCH 109598

Respondent.

Case No. 4727

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 4, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4727 against Thucuc Thi Tran (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about December 29, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 109598 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4727 and will expire on January 31, 2014, unless renewed.

1 3. On or about November 18, 2013, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 4727, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: 3112 Ascot Court, Richmond, CA 94806.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

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

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

16 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4727.

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

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

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 4727, finds that
28 the charges and allegations in Accusation No. 4727, are separately and severally, found to be true
and correct by clear and convincing evidence.

///

///

1 9. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement are \$3,010.00 as of December 30, 2013.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Thucuc Thi Tran has subjected
6 her Pharmacy Technician Registration No. TCH 109598 to discipline.

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

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

11 a. Business and Professions Code (Code) section 4059, subdivision (a) (Furnishing
12 Dangerous Drugs without Valid Prescription).

13 b. Code 4301, subdivision (f) (Unprofessional Conduct: Acts of Dishonesty and Fraud).

14 c. Code section 4060 (Illegal Possession of Controlled Substances).

15 d. Code section 4301, subdivision (q) (Unprofessional Conduct: Subversion of
16 Investigation).

17 ORDER

18 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 109598, heretofore
19 issued to Respondent Thucuc Thi Tran, is revoked.

20 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
21 written motion requesting that the Decision be vacated and stating the grounds relied on within
22 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
23 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

24 ///

25 ///

26 ///

27 ///

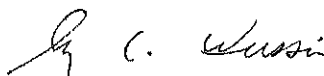
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This Decision shall become effective on March 10, 2014.

It is so ORDERED February 7, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STAN C. WEISSER
Board President

TRAN, THUCUC THI.DOCX
DOJ Matter ID:SF2013901672

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 TIMOTHY J. McDONOUGH
Deputy Attorney General
4 State Bar No. 235850
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2134
Facsimile: (510) 622-2270
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:
12 **THUCUC THI TRAN**
3112 Ascot Court
13 **Richmond, CA 94806**
14 **Pharmacy Technician Registration No.**
TCH 109598
15
16 Respondent.

Case No. 4727

ACCUSATION

17
18 Complainant alleges:

19 PARTIES

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about December 29, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 109598 to Thucuc Thi Tran (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought in this
25 Accusation and will expire on January 31, 2014, unless renewed.

26 ///
27 ///
28 ///

1 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
2 proceeding against, the licensee or to render a decision suspending or revoking the license."

3 STATUTORY PROVISIONS

4 7. Section 4301 of the Code states, in relevant part:

5 "The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

7 Unprofessional conduct shall include, but is not limited to, any of the following:

8 ...

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

12 ...

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

15 8. Section 4059 of the Code states, in relevant part:

16 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
17 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
18 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
19 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
20 3640.7."

21 9. Section 4060 of the Code states:

22 "No person shall possess any controlled substance, except that furnished to a person upon
23 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
24 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
25 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
26 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
27 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
28 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not

1 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
2 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
3 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
4 labeled with the name and address of the supplier or producer.

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

8 10. Section 4022 of the Code states

9 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
10 humans or animals, and includes the following:

11 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
12 prescription," "Rx only," or words of similar import.

13 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
14 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
15 in with the designation of the practitioner licensed to use or order use of the device.

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

18 DRUG STATUTES

19 11. Hydrocodone/APAP is a Schedule III controlled substance as designated by Health
20 and Safety Code section 11056, subdivision (e)(4), and a dangerous drug as designated by
21 Business and Professions Code section 4022. Hydrocodone is a pain medication and is combined
22 with Acetaminophen. Norco is a brand name of the controlled substance, Hydrocodone.

23 12. Carisoprodol is a Schedule IV controlled substance as designated by Health and
24 Safety Code section 11057 and is a dangerous drug as designated by Business and Professions
25 Code section 4022. Soma is a brand name of the controlled substance, Carisoprodol.

26 13. Metronidazole is a dangerous drug as designated by Business and Professions Code
27 section 4022. Flagyl is a brand name of the substance, Meronidazole.

28 ///

1 COST RECOVERY

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

6 FACTUAL BACKGROUND

7 15. Respondent worked as a pharmacy technician at CVS Pharmacy # 3053 (CVS) in El
8 Cerrito, California, from on or about March 10, 2011, until on or about September 19, 2012.
9 From on or about April 30, 2011, to on or about September 18, 2012, Respondent stole drugs
10 from CVS while she was working as a pharmacy technician. Specifically, on or about June 15,
11 2012, to on or about September 18, 2012, Respondent stole 779 tablets of Carisoprodol 350 mg.
12 On or about April 30, 2011, to on or about September 18, 2012, Respondent stole 436 tablets of
13 Hydrocodone/Acetaminophen 10/325 mg. On or about June of 2012, to on or about September of
14 2012, Respondent stole one tube of metronidazole gel.

15 16. CVS had suspected Respondent of possibly taking drugs because drugs were missing
16 from the pharmacy. On or about September 18, 2012, Satish C. Putta, a CVS Pharmacy
17 Supervisor, and Shannon Prior, a CVS Regional Loss Prevention Manager, interviewed
18 Respondent about the theft of Carisoprodol 350 mg and Hydrocodone/APAP 10/325 mg from
19 CVS Pharmacy 3053. Respondent admitted to stealing 661 tablets of Carisoprodol 350 mg,
20 valued at \$368.99, 140 tablets of Hydrocodone 10/325 mg, valued at \$109.99, and 1 tube of
21 Metronidazole, valued at \$73.99. Respondent admitted that she stole the Carisoprodol for her
22 sick father and stole the Metronidazole for herself because she was too embarrassed to go to a
23 doctor and get a valid prescription for it. On or about September 18, 2012, Respondent was
24 arrested by an El Cerrito Police Department officer and admitted to stealing about 20 tablets of
25 Hydrocodone/acetaminophen 10/325 mg, and about 50 to 100 tablets of Carisoprodol 350 mg.
26 Respondent told the officer that she stole those medications for her sick father. Respondent also
27 admitted to the officer that she stole one dosage unit of Metronidazole 500 mg for herself, due to
28 a "women's hygiene issue."

1 **FIRST CAUSE FOR DISCIPLINE**
2 **(Furnishing Dangerous Drugs without a Prescription)**
3 **(Bus. & Prof Code 4059, subd. (a))**

4 17. Respondent has subjected her Pharmacy Technician License to disciplinary action
5 under Code section 4059, subdivision (a), in that she furnished controlled substances and
6 dangerous drugs to a person, her father, without a prescription. The circumstances are explained
7 more fully in paragraphs 15 and 16, above.

8 **SECOND CAUSE FOR DISCIPLINE**
9 **(Unprofessional Conduct--Act of Dishonesty, Fraud, or Deceit)**
10 **(Bus & Prof. Code 4301, subd. (f))**

11 18. Respondent has subjected her Pharmacy Technician License to disciplinary action
12 under Code section 4301, subdivision (f), in that she stole prescription drugs from CVS, her
13 employer. The circumstances are explained more fully in paragraphs 15 and 16, above.

14 **THIRD CAUSE FOR DISCIPLINE**
15 **(Possession of Controlled Substance without a Prescription)**
16 **(Bus. & Prof. Code 4060)**

17 19. Respondent has subjected her Pharmacy Technician License to disciplinary action
18 under Code section 4060, in that she possessed controlled substances without a prescription. The
19 circumstances are explained more fully in paragraphs 15 and 16, above.

20 **FOURTH CAUSE FOR DISCIPLINE**
21 **(Unprofessional Conduct-Subversion of Investigation)**
22 **(Bus. & Prof. Code 4301, subd. (q))**

23 20. Respondent has subjected her Pharmacy Technician License to disciplinary action
24 under Code section 4301, subdivision (q), in that she subverted or attempted to subvert an
25 investigation by the Board of Pharmacy. Specifically, Respondent failed to respond to
26 correspondence from the Board of Pharmacy regarding her theft of controlled substances from
27 CVS. Correspondence was sent to Respondent on February 13, 2013, requesting that she contact
28 the Board upon receiving the letter. Respondent did not respond to this letter.

///

///

///

///

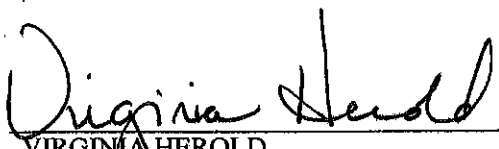
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

P R A Y E R

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 109598, issued to Thucuc Thi Tran;
2. Ordering Thucuc Thi Tran 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 11/4/13



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

SF2013901672