

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:

**REBECCA LYNN AGUILAR
4475 Jurupa Avenue, Apt. N
Riverside, CA 92506**

**Pharmacy Technician Registration
No. TCH 126898**

Respondent.

Case No. 4932

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. 4932 against Rebecca Lynn Aguilar (Respondent) before the Board of Pharmacy. (A copy of the Accusation is attached as Exhibit A.)

2. On or about October 8, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 126898 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4932 and will expire on September 30, 2014, unless renewed.

3. On or about December 20, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4932, 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

1 section 4100 and California Code of Regulations, title 16, section 1704, is required to be reported
2 and maintained with the Board. Respondent's address of record was and is:

3 4475 Jurupa Avenue, Apt. N
4 Riverside, CA 92506

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. On or about December 2, 2013, the aforementioned documents were returned by the
9 U.S. Postal Service marked "Attempted – Not Known, Unable to Forward." The address on the
10 documents was the same as the address on file with the Board. Respondent failed to maintain an
11 updated address with the Board and the Board has made attempts to serve the Respondent at the
12 address on file. Respondent has not made herself available for service and therefore, has not
13 availed herself of her right to file a notice of defense and appear at hearing.

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

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
21 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4932.

22 8. California Government Code section 11520 states, in pertinent part:

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

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 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. 4932, finds that

1 the charges and allegations in Accusation No. 4932, are separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$402.50 as of December 11, 2013.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Rebecca Lynn Aguilar has
8 subjected her Pharmacy Technician Registration No. TCH 126898 to discipline.

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

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

13 a. Respondent has subjected her registration to discipline under sections 490 and
14 4301, subdivision (l) of the Code in that on or about March 20, 2013, in a criminal proceeding
15 entitled *People of the State of California v. Rebecca Lynn Aguilar*, in Riverside County Superior
16 Court, case number RIM13003061, Respondent was convicted on her plea of guilty to violating
17 Penal Code section 459, burglary, a crime that is substantially related to the qualifications, duties,
18 and functions of a pharmacy technician.

19 b. Respondent has subjected her registration to discipline under sections 490 and
20 4301, subdivision (l) of the Code in that on or about June 10, 2013, in a criminal proceeding
21 entitled *People of the State of California v. Rebecca Lynn Aguilar*, in Riverside County Superior
22 Court, case number RIF1303114, Respondent was convicted on her plea of guilty to violating
23 Penal Code section 459, second degree burglary, and Penal Code section 530.5, subdivision
24 (c)(1), identity theft, crimes that are substantially related to the qualifications, duties, and
25 functions of a pharmacy technician.

26 c. Respondent has subjected her registration to discipline under section 4301,
27 subdivision (f) of the Code for unprofessional conduct in that on or about December 18, 2012 and
28 March 7, 2013, Respondent committed acts involving fraud, deceit, and dishonesty.

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

ORDER

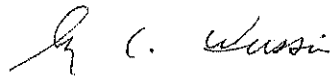
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 126898, heretofore issued to Respondent Rebecca Lynn Aguilar, is revoked.

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 February 28, 2014.

It is so ORDERED ON January 29, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STAN C. WEISSER
Board President

DOJ Matter ID: SD2013705877

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 AMANDA DODDS
Senior Legal Analyst
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 4932

13 **REBECCA LYNN AGUILAR**
14 **4475 Jurupa Avenue, Apt. N**
Riverside, CA 92506

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 126898**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about October 8, 2012, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 126898 to Rebecca Lynn Aguilar (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on September 30, 2014, unless renewed.

27 ///

28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement of a
10 license on a retired status, or the voluntary surrender of a license by a licensee shall not
11 deprive the board of jurisdiction to commence or proceed with any investigation of, or
12 action or disciplinary proceeding against, the licensee or to render a decision suspending
13 or revoking the license.

STATUTORY PROVISIONS

14 6. Section 482 of the Code states:

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

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

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

21 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
22 revoke a license on the ground that the licensee has been convicted of a crime substantially related
23 to the qualifications, functions, or duties of the business or profession for which the license was
24 issued.

25 8. Section 493 of the Code states:

26 Notwithstanding any other provision of law, in a proceeding conducted by a board
27 within the department pursuant to law to deny an application for a license or to suspend
28 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

1 discipline or to determine if the conviction is substantially related to the qualifications,
2 functions, and duties of the licensee in question.

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

5 9. Section 4301 of the Code states:

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

10

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

14

15 (l) The conviction of a crime substantially related to the qualifications, functions,
16 and duties of a licensee under this chapter. The record of conviction of a violation of
17 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
18 regulating controlled substances or of a violation of the statutes of this state regulating
19 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional
20 conduct. In all other cases, the record of conviction shall be conclusive evidence only of
21 the fact that the conviction occurred. The board may inquire into the circumstances
22 surrounding the commission of the crime, in order to fix the degree of discipline or, in the
23 case of a conviction not involving controlled substances or dangerous drugs, to determine
24 if the conviction is of an offense substantially related to the qualifications, functions, and
25 duties of a licensee under this chapter. A plea or verdict of guilty or a conviction
26 following a plea of nolo contendere is deemed to be a conviction within the meaning of
27 this provision. The board may take action when the time for appeal has elapsed, or the
28 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.

. . . .

REGULATORY PROVISIONS

10. 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).

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

- (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.

11. 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

12. Section 125.3 of the Code provides, 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(March 20, 2013 Criminal Conviction for Burglary on December 18, 2012)

13. Respondent has subjected her registration to discipline under sections 490 and 4301, subdivision (l) of the Code in that she was convicted of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

a. On or about March 20, 2013, in a criminal proceeding entitled *People of the State of California v. Rebecca Lynn Aguilar*, in Riverside County Superior Court, case number RIM13003061, Respondent was convicted on her plea of guilty to violating Penal Code section 459, burglary, a misdemeanor. Pursuant to Respondent's plea agreement, the court dismissed an additional count of violating Penal Code section 490.5, shoplifting.

///

1 acquiring the personal identifying information of another person. Pursuant to Respondent's plea
2 agreement, the court dismissed additional felony counts of violating Penal Code section 470,
3 subdivision (d), check forgery, and Penal Code section 475, subdivision (c), possession of stolen
4 checks.

5 b. As a result of the convictions, on or about June 10, 2013, Respondent was
6 sentenced to 90 days in the custody of the sheriff, with credit for two days, to be served in the
7 Work Release Program. Respondent was granted three years formal probation, and ordered to
8 pay fees, fines, and restitution, submit to a Fourth Amendment waiver, and comply with felony
9 probation terms.

10 c. The facts that led to the convictions are that on or about the afternoon of March
11 7, 2013, while Respondent was released on bail for the charges described in paragraph 13, above,
12 Respondent went to a Riverside credit union and attempted to cash a forged check in the amount
13 of \$817. The teller recognized that the check appeared "washed" and contacted the owner of the
14 check. The check's owner confirmed that the check had originally been written to his ex-wife and
15 that Respondent did not have permission to possess or cash the check. The Riverside Police
16 Department was called and the officer took a statement from Respondent. Respondent claimed
17 that a friend gave her the check in payment for house cleaning, and that the friend had erased the
18 original payee's name and wrote in Respondent's name. Because the friend did not have a bank
19 account, Respondent was to receive \$150 of the \$817 dollars in exchange for cashing the check.
20 During a search of Respondent's purse, the officer found California identification cards and
21 driver's licenses for four individuals. Respondent stated she found a purse in the bathroom of a
22 McDonalds; she removed the California identification card and some money, and threw the purse
23 away. She stated she did not know how the other cards came into her possession. Respondent
24 was arrested for commercial burglary, forgery, and misappropriation of lost property.

25 ///
26 ///
27 ///
28 ///

THIRD CAUSE FOR DISCIPLINE

(Commission of Acts Involving Dishonesty, Fraud, Deceit & Corruption)

15. Respondent has subjected her registration to discipline under section 4301, subdivision (f) of the Code for unprofessional conduct in that on or about December 18, 2012 and March 7, 2013, Respondent committed acts involving fraud, deceit, and dishonesty, as described in paragraphs 13 and 14, above.

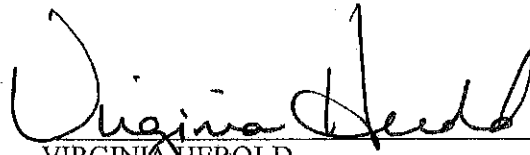
PRAYER

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 126898, issued to Rebecca Lynn Aguilar;
2. Ordering Rebecca Lynn Aguilar 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: _____

11/4/13



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

SD2013705877