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

In the Matter of the Accusation Against:
ELIZABETH ANN ENGMAN
8927 Canby Avenue
Northridge, CA 91325
Pharmacy Technician Registration No. TCH
112823

Respondent.

Case No. 4974

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 31, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4974 against Elizabeth Ann Engman (Respondent) before the Board of Pharmacy. A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

2. On or about May 10, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 112823 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4974 and will expire on February 28, 2015, unless renewed.

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1 3. On or about February 18, 2014, Respondent was served by Certified Mail copies of
2 the Accusation No. 4974, Statement to Respondent, Notice of Defense, Request for Discovery,
3 and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is: 8927 Canby Avenue, Northridge, CA 91325.

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. On or about March 18, 2014, the aforementioned documents were returned by the
11 U.S. Postal Service marked "Unclaimed." A copy of the United States Postal Service's Track and
12 Confirm No. 7196900891118149812 and a copy of the returned service stamp on a returned
13 envelope are attached as exhibit B, and is incorporated herein by reference.

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. 4974.

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. 4974, finds that

1 the charges and allegations in Accusation No. 4974, 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 \$3,698.00 as of February 18, 2014.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Elizabeth Ann Engman has
8 subjected her Pharmacy Technician Registration No. TCH 112823 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 evidence contained in the Default Decision Evidence Packet in this case.:

13 a. Respondent is subject to disciplinary action under sections 4300 and 4301,
14 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
15 involving moral turpitude, dishonesty, fraud, deceit, or corruption with the intent to substantially
16 benefit himself, or substantially injure another. The circumstances are that on or about September
17 21, 2012, the Ventura County Sheriff's Department responded to a call from CVS in Thousand
18 Oaks, California where Respondent was employed. The Loss Prevention Manager for CVS
19 informed the sheriff deputy that she had received information that Respondent was stealing and
20 consuming drugs from the pharmacy. When asked about stealing and consuming drugs,
21 Respondent admitted to stealing and consuming Norco, Vicodin ES and Soma from the
22 pharmacy.

23 b. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
24 (o), in that Respondent committed acts of unprofessional conduct and/ or violated provisions of
25 the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations
26 set forth above in paragraph 3, subparagraph (a), as though set forth fully.

27 c. Respondent is subject to disciplinary action for unprofessional conduct under Code
28 section 4301, subdivision (j), 4060, in conjunction with Health and Safety Code section 11170, in

1 that Respondent stole Norco, Vicodin ES and Soma from the pharmacy while working as a
2 pharmacy technician at CVS Pharmacy. Complainant refers to, and by this reference
3 incorporates, the allegations set forth above in paragraph 3, subparagraph (a), as though set forth
4 fully.

5 d. Respondent is subject to disciplinary action under California Code of Regulations,
6 title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent committed an
7 act substantially related to the qualifications, functions, or duties of a pharmacy technician.
8 Complainant refers to, and by this reference incorporates, the allegations set forth above in
9 paragraph 3, subparagraph (a), as though set forth fully.

10 e. Respondent is subject to disciplinary action for unprofessional conduct under Code
11 section 4301, subdivision (h), 4327, in conjunction with Health and Safety Code section 11170, in
12 that Respondent administered Norco, Vicodin ES and Soma to herself while working as a
13 pharmacy technician at CVS Pharmacy. Complainant refers to, and by this reference
14 incorporates, the allegations set forth above in paragraph 3, subparagraph (a), as though set forth
15 fully.

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ORDER

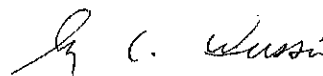
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 112823, heretofore issued to Respondent Elizabeth Ann Engman, is revoked.

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 May 30, 2014.

It is so ORDERED on April 30, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

DEFAULT DECISION AND ORDER.DOCX
DOJ Matter ID:LA2013510540

Attachment:
Exhibit A: Accusation
Exhibit B: A copy of the United States Postal Service's Track and Confirm No. 71969008911118149812 and a copy of the returned service stamp on a returned envelope

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2095
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:
11 **ELIZABETH ANN ENGMAN**
12 **8927 Canby Avenue**
13 **Northridge, CA 91325**
14 **Pharmacy Technician Registration No. TCH**
112823
15 Respondent.

Case No. 4974

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 May 10, 2011, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 112823 to Elizabeth Ann Engman (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 February 28, 2015, unless renewed.

25 **JURISDICTION**

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

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

5 5. Section 4060 of the Code states:

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

17 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
18 subject to discipline, including suspension or revocation.

19 7. Section 4300.1 of the Code states:

20 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
21 operation of law or by order or decision of the board or a court of law, the placement of a license
22 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
23 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
24 proceeding against, the licensee or to render a decision suspending or revoking the license."

25 8. Section 4301 of the Code states:

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

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"(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.

....

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

"(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.

....

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

9. Section 4327 of the Code states:

"Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

10. Section 11170 of the Health and Safety Code states:

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

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1770 states, in pertinent part:

"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

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 **COST RECOVERY**

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

9 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

10 13. Norco is the brand name for the combination narcotic, Hydrocodone and
11 Acetaminophen, and is a Schedule III controlled substance pursuant to Health and Safety Code
12 section 11056, subdivision (e) and is categorized as a dangerous drug pursuant to Business and
13 Professions Code section 4022.

14 14. Vicodin ES is the brand name for Hydrocodone with Acetaminophen. It is a Schedule
15 III controlled substance as designated by Health and Safety Code section 11056, subdivision
16 (e)(4) and is a dangerous drug as defined in Business and Professions Code section 4022.

17 15. Soma is a Schedule IV controlled substance according to Health and Safety Code
18 section 11056, subdivision (d) and is a dangerous drug as defined in Business and Professions
19 Code section 4022. Its indicated use is as an adjunct to rest, physical therapy and other measures
20 for acute painful musculoskeletal conditions.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

23 16. Respondent is subject to disciplinary action under sections 4300 and 4301,
24 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
25 involving moral turpitude, dishonesty, fraud, deceit, or corruption with the intent to substantially
26 benefit himself, or substantially injure another, as follows:

27 a. On or about September 21, 2012, the Ventura County Sheriff's Department responded
28 to a call from CVS in Thousand Oaks, California where Respondent was employed. The Loss

1 Prevention Manager for CVS informed the sheriff deputy that she had received information that
2 Respondent was stealing and consuming drugs from the pharmacy. When asked about stealing
3 and consuming drugs, Respondent admitted to stealing and consuming Norco, Vicodin ES and
4 Soma from the pharmacy.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

7 17. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
8 (o), in that Respondent committed acts of unprofessional conduct and/ or violated provisions of
9 the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations
10 set forth above in paragraph 16, subparagraph (a), as though set forth fully.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Possession of a Controlled Substance Without a Prescription)**

13 18. Respondent is subject to disciplinary action for unprofessional conduct under Code
14 section 4301, subdivision (j), 4060, in conjunction with Health and Safety Code section 11170, in
15 that Respondent stole Norco, Vicodin ES and Soma from the pharmacy while working as a
16 pharmacy technician at CVS Pharmacy. Complainant refers to, and by this reference
17 incorporates, the allegations set forth above in paragraph 16, subparagraph (a), as though set forth
18 fully.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Substantially Related Act)**

21 19. Respondent is subject to disciplinary action under California Code of Regulations,
22 title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent committed an
23 act substantially related to the qualifications, functions, or duties of a pharmacy technician.
24 Complainant refers to, and by this reference incorporates, the allegations set forth above in
25 paragraph 16, subparagraph (a), as though set forth fully.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Working as a Technician While Under the Influence of a Controlled Substance)

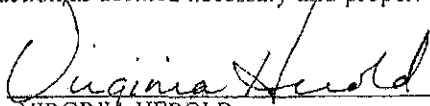
3 20. Respondent is subject to disciplinary action for unprofessional conduct under Code
4 section 4301, subdivision (h), 4327, in conjunction with Health and Safety Code section 11170, in
5 that Respondent administered Norco, Vicodin ES and Soma to herself while working as a
6 pharmacy technician at CVS Pharmacy. Complainant refers to, and by this reference
7 incorporates, the allegations set forth above in paragraph 16, subparagraph (a), as though set forth
8 fully.

9 PRAYER

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

- 12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 112823,
13 issued to Elizabeth Ann Engman;
- 14 2. Ordering Elizabeth Ann Engman to pay the Board of Pharmacy the reasonable costs
15 of the investigation and enforcement of this case, pursuant to Business and Professions Code
16 section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: 1/31/14


19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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