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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. 5182

**VICTORIA LYNN BROWN
728 I Street, # D
Antioch, CA 94509
Pharmacy Technician Registration No. TCH
131420**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about July 11, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 5182, against Victoria Lynn Brown (Respondent) before the Board.

(Accusation attached as Exhibit A.)

2. On or about March 21, 2013, the Board issued Pharmacy Technician Registration No. TCH 131420 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5182, and will expire on April 30, 2016, unless renewed.

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1 3. On or about July 25, 2014, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 5182, Statement to Respondent, Notice of Defense, Request for
3 Discovery, 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 (Code) section
5 4100, is required to be reported and maintained with the Board. Respondent's address of record
6 was and is: 728 I Street, # D, Antioch, CA 94509.

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 Code section 124.

9 5. On or about September 23, 2014, the aforementioned documents were returned by the
10 U.S. Postal Service marked "Unclaimed."

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5182.

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

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

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 5182, finds that
the charges and allegations in Accusation No. 5182, are separately and severally, found to be true
and correct by clear and convincing evidence.

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1 10. 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 \$1,667.00 as of December 10, 2014.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Victoria Lynn Brown has
6 subjected her Pharmacy Technician Registration No. TCH 131420 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. Code sections 4301, subdivision (l), and/or 490 (Criminal Conviction);

12 b. Code section 4301, subdivision (f) (Acts Involving Moral Turpitude, Dishonesty,
13 Fraud, Deceit, or Corruption);

14 c. Code sections 4301, subdivision (j), and/or 4060 (Unlawful Possession of Controlled
15 Substances);

16 d. Code section 4301 (Unprofessional Conduct).

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ORDER

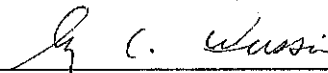
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 131420, heretofore issued to Respondent Victoria Lynn Brown, is revoked.

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 9, 2015.

It is so ORDERED January 8, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

41152764.DOC
DOJ Matter ID:SF2014408173

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:
11
12 **VICTORIA LYNN BROWN**
728 I Street, # D
13 Antioch, CA 94509
14 Pharmacy Technician Registration No. TCH
131420
15 Respondent.

Case No. 5182

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 as
20 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
21 2. On or about March 21, 2013, the Board issued Pharmacy Technician Registration
22 Number TCH 131420 to Victoria Lynn Brown (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and will
24 expire on April 30, 2016, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board under the authority of the following laws.
27 All section references are to the Business and Professions Code unless otherwise indicated.

28 ///

1 4. Code section 4300 states:

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

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

6 "(1) Suspending judgment.

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

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

9 "(4) Revoking his or her license.

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

13 "...

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

19 5. Code section 4300.1 states:

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

25 STATUTORY PROVISIONS

26 6. Section 4060 of the Code states:

27 "No person shall possess any controlled substance, except that furnished to a person upon
28 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor

1 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
2 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
3 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
4 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
5 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply
6 to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
7 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
8 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
9 labeled with the name and address of the supplier or producer.

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

13 7. Code section 4301 states:

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

17 "...

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

21 "...

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

24 "...

25 "(l) The conviction of a crime substantially related to the qualifications, functions, and duties
26 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
3 The board may inquire into the circumstances surrounding the commission of the crime, in order to
4 fix the degree of discipline or, in the case of a conviction not involving controlled substances or
5 dangerous drugs, to determine if the conviction is of an offense substantially related to the
6 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
8 of this provision. The board may take action when the time for appeal has elapsed, or the
9 judgment of conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
11 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
12 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
13 indictment.

14 "..."

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

19 "..."

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

23 DANGEROUS DRUGS/CONTROLLED SUBSTANCES

24 9. Code Section 4022 states:

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

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

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

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

6 10. Norco, Vicodin, Vicodin ES, Lortab, and Lorcet are among the brand names for
7 compounds of varying dosages of acetaminophen (aka APAP) and hydrocodone, a Schedule III
8 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
9 drug as designated by Business and Professions Code section 4022. The varying compounds are
10 also known generically as Hydrocodone with APAP. These are all narcotic drugs.

11 COST RECOVERY

12 11. Code section 125.3 states, in pertinent part, that the Board may request the
13 administrative law judge to direct a licensee found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 FACTS

17 12. On or about January 27, 2014, in the Superior Court of California, County of
18 Tuolumne, in Case Number CRF42359, Respondent was convicted of violating Penal Code
19 sections 4573.6 (unauthorized possession of controlled substances in a jail facility), a felony, and
20 two counts of section 4576, subdivision (a) (bringing cellular telephone into a jail), a misdemeanor.

21 Imposition of sentence was suspended in favor of a three (3) year felony probation term.
22 Respondent was ordered to, among other things, serve 90 days in county jail, register with the
23 Sheriff/Chief of police pursuant to Health and Safety Code section 11590, submit to drug and/or
24 alcohol testing, submit to warrantless searches, and pay restitution and fines and fees.
25 Respondent's conviction arose from the incident described below.

26 13. On or about September 24, 2013, Respondent attempted to drop off contraband at the
27 Sierra Conservation Center, a prison, where her husband was an inmate. Respondent carried a
28 laundry bag that contained cell phones, cell phone chargers, and tobacco, all sewn into a sleeping

1 bag. Prison official's searched Respondent's car and found, in pertinent part, a Walgreen's
2 prescription bottle with the patient's name blacked out that contained 91 generic hydrocodone
3 pills, a Kaiser Permanente prescription bottle with Respondent's name that contained 16 full
4 generic hydrocodone pills, 2 partial generic hydrocodone pills, and 5 brand Vicodin pills, and a
5 digital scale. Respondent admitted to corresponding with her inmate husband regarding the
6 delivery of the contraband.

7 FIRST CAUSE FOR DISCIPLINE

8 (Criminal Conviction)

9 14. Respondent is subject to disciplinary action under Code sections 4301, subdivision (l),
10 and/or 490, in that on or about January 27, 2014, she was convicted of a substantially related
11 offense, as set forth in paragraph 12, above.

12 SECOND CAUSE FOR DISCIPLINE

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

14 15. Respondent is subject to discipline under Code sections 4301, subdivision (f), in that
15 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as
16 set forth in paragraphs 12 and 13, above.

17 THIRD CAUSE FOR DISCIPLINE

18 (Unlawful Possession of Controlled Substances)

19 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
20 and/or (o), and/or section 4060, in that she had at least 91 generic Hydrocodone pills that did not
21 belong to her, as set forth in paragraph 13, above.

22 FOURTH CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct)

24 17. Respondent is subject to disciplinary action under Code section 4301, in that she acted
25 unprofessionally, as set forth in paragraphs 12 and 13, above.

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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:

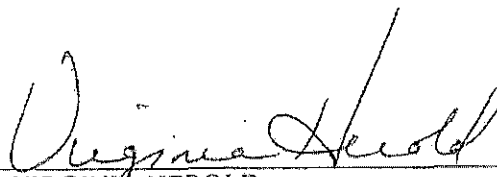
1. Revoking or suspending Pharmacy Technician Registration Number TCH 131420, issued to Victoria Lynn Brown;

2. Ordering Victoria Lynn Brown 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:

7/11/14



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

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