

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:

Case No. 5664

TIMOTHY MAKRAM ABRAHAM
16191 Carmine Street
Fontana, CA 92336
Pharmacy Technician Registration
No. TCH 135177

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about July 1, 2017, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5664 against Timothy Makram Abraham (Respondent) before the Board of Pharmacy.

(Accusation attached as Exhibit A.)

2. On or about September 25, 2013, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 135177 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5664 and expired on May 31, 2017. Said license was suspended on November 13, 2015, pursuant to

1 Penal Code section 23. This lapse in licensure, however, pursuant to Business and Professions
2 Code section 118(b) and/or agency-specific statute does not deprive the Board of its authority to
3 institute or continue this disciplinary proceeding.

4 3. On or about July 17, 2017, Respondent was served by Certified and First Class Mail
5 copies of the Accusation No. 5664, Statement to Respondent, Notice of Defense, Request for
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
7 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
8 is required to be reported and maintained with the Board. Respondent's address of record was
9 and is: 16191 Carmine Street, Fontana, CA 92336.

10 4. Service of the Accusation was effective as a matter of law under the provisions of
11 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
12 124.

13 5. Government Code section 11506(c) states, in pertinent part:

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

19 6. The Board takes official notice of its records and the fact that Respondent failed to
20 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
21 waived his right to a hearing on the merits of Accusation No. 5664.

22 7. California Government Code section 11520(a) states, in pertinent part:

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

27 8. 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. 5664, finds that

1 the charges and allegations in Accusation No. 5664, are separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 9. 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 are \$5,630.50 as of October 5, 2017.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Timothy Makram Abraham has
8 subjected his Pharmacy Technician Registration No. TCH 135177 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. Business and Professions Code sections 490 and 4301(*l*), on the grounds of
14 unprofessional conduct, in that on or about March 9, 2016, Respondent was convicted
15 of grand theft, as a felony.

16 b. Business and Professions Code section 4301(*f*), in that Respondent committed acts of
17 involving dishonesty, fraud, or deceit with the intent to substantially benefit himself,
18 or substantially injure another.

19 c. Business and Professions Code section 4301(*h*), in that Respondent administered to
20 himself controlled substances or dangerous drugs to the extent or in a manner as to be
21 dangerous or injuries to himself, any person of the public, or to the extent that the use
22 impaired his ability to conduct with safety to the public the practice authorized by his
23 license.

24 d. Business and Professions Code section 4301(*j*), by and through sections 4059,
25 subdivision (a), and 4060 of the Code, sections 11170, 11171, 11173, and 11350 of
26 the Health and Safety Code, and section 829(*b*) of Title 21 of the United States Code,
27 in that Respondent violated the statutes of this state and the United States regulating
28 controlled substances and dangerous drugs.

1 e. Business and Professions Code section 4301(o), by and through sections 4060 of the
2 Code, sections 11170, 11171, 11173, and 11350 of the Health and Safety Code, and
3 section 829(b) of Title 21 of the United States Code, in that Respondent violated or
4 attempted to violate the provisions of the terms of this chapter and the applicable
5 federal and state laws and regulations governing pharmacy.

6 ORDER

7 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 135177, heretofore
8 issued to Respondent Timothy Makram Abraham, is revoked.

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

13 This Decision shall become effective at 5:00 p.m. on December 6, 2017.

14 It is so ORDERED on November 6, 2017.

15
16 BOARD OF PHARMACY
17 DEPARTMENT OF CONSUMER AFFAIRS
18 STATE OF CALIFORNIA

19 

20
21 By _____
22 Amy Gutierrez, Pharm.D.
23 Board President

24 ABRAHAM SIGNATURE PAGE 52590731_2.DOCX
25 DOJ Matter ID:LA2016601628

26 Attachment:
27 Exhibit A: Accusation

28

Exhibit A

Accusation

(TIMOTHY MAKRAM ABRAHAM)

1 XAVIER BECERRA
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **TIMOTHY MAKRAM ABRAHAM**
16191 Carmine Street
13 Fontana, CA 92336
14 **Pharmacy Technician Registration No. TCH**
15 **135177**
16 Respondent.

Case No. 5664
A C C U S A T I O N

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 September 25, 2013, the Board of Pharmacy issued Pharmacy Technician
23 Registration No. TCH 135177 to Timothy Makram Abraham ("Respondent"). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on May 31, 2017, unless renewed.

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

JURISDICTION

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

4. Section 4300, provision (a), of the Code states, in pertinent part, "[e]very license issued may be suspended or revoked. . . ."

5. Section 4300.1 of the Code states "[t]he expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

STATUTORY PROVISIONS

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

7. Section 4022 of the Code states, in pertinent part:

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

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

....

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

8. Section 4059, subdivision (a), of the Code states, in pertinent part:

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

1 9. Section 4060 of the Code states, in pertinent part:

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

15 Nothing in this section authorizes a certified nurse midwife, a nurse
16 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
17 stock of dangerous drugs and devices.

18 10. Section 4301 of the Code states, in pertinent part:

19 The board shall take action against any holder of a license who is guilty of
20 unprofessional conduct or whose license has been issued by mistake.
21 Unprofessional conduct shall include, but is not limited to, any of the following:

22

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

26

27 (h) The administering to oneself, of any controlled substance, or the use of
28 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.

. . . .

(l) The conviction of a crime substantially related to the qualifications,
functions, and duties of a licensee under this chapter. The record of conviction of
a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
evidence of unprofessional conduct. In all other cases, the record of conviction
shall be conclusive evidence only of the fact that the conviction occurred. The
board may inquire into the circumstances surrounding the commission of the
crime, in order to fix the degree of discipline or, in the case of a conviction not

1 involving controlled substances or dangerous drugs, to determine if the conviction
2 is of an offense substantially related to the qualifications, functions, and duties of a
3 licensee under this chapter. A plea or verdict of guilty or a conviction following a
4 plea of nolo contendere is deemed to be a conviction within the meaning of this
5 provision. The board may take action when the time for appeal has elapsed, or the
6 judgment of conviction has been affirmed on appeal or when an order granting
7 probation is made suspending the imposition of sentence, irrespective of a
8 subsequent order under Section 1203.4 of the Penal Code allowing the person to
9 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
10 the verdict of guilty, or dismissing the accusation, information, or indictment.

11

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

17 11. California Health and Safety Code section 11170 states, “[n]o person shall prescribe,
18 administer, or furnish a controlled substance for himself.”

19 12. California Health and Safety Code section 11171 states, “[n]o person shall prescribe,
20 administer, or furnish a controlled substance except under the conditions and in the manner
21 provided by this division.”

22 13. California Health and Safety Code section 11173, subdivision (a), states, in pertinent
23 part, “[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to
24 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
25 misrepresentation, or subterfuge; or (2) by the concealment of a material fact. . . .”

26 14. California Health and Safety Code section 11350 states, in pertinent part:

27 (a) Except as otherwise provided in this division, every person who
28 possesses (1) any controlled substance specified in subdivision (b) or (c), or
paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14),
(15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or
(c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any
controlled substance classified in Schedule III, IV, or V which is a narcotic drug,
unless upon the written prescription of a physician, dentist, podiatrist, or
veterinarian licensed to practice in this state, shall be punished by imprisonment
pursuant to subdivision (h) of Section 1170 of the Penal Code. . . .

///
///
///

1 REGULATORY PROVISION

2 15. Title 21 of the United States Code, section 829, subdivision (b), states, in pertinent part,
3 “Schedule III and IV substances. Except when dispensed directly by a practitioner, other than a
4 pharmacist, to an ultimate user, no controlled substance in schedule III or IV, which is a
5 prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 USCS §§
6 301 et seq.], may be dispensed without a written or oral prescription in conformity with section
7 503(b) of that Act [21 USCS § 353(b)]. Such prescriptions may not be filled or refilled more than
8 six months after the date thereof or be refilled more than five times after the date of the
9 prescription unless renewed by the practitioner. . . .”

10 COST RECOVERY

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

15 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

16 17. “Marijuana,” also known as Cannabis, is a dangerous drug as defined in section 4022
17 of the Code and a hallucinogenic Schedule I controlled substance as defined in Health and Safety
18 Code section 11054, subdivision (d)(13).

19 18. “Marinol,” a trade name for dronabinol, is a hallucinogenic agent and a man-made
20 form of cannabis. It is a dangerous drug as defined in section 4022 of the Code, and a schedule
21 III controlled substance as defined in Health and Safety Code Section 11056 subdivision (h).

22 19. “Soma Tablets,” a trade name for Carisoprodol, a muscle-relaxant and sedative, is a
23 dangerous drug as defined in section 4022 of the Code, and a Schedule IV controlled substance as
24 defined in Title 21 Code of Federal Regulations Part 1308.14, subdivision (c)(6).

25 20. “Ultram,” a trade name for tramadol hydrochloride, is a centrally acting synthetic
26 analgesic compound. It is a dangerous drug as defined in section 4022 of the Code, and a
27 controlled substance as defined in Title 21 Code of Federal Regulations Part 1308.14, subdivision
28 (a)(3).

1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct—Conviction of a Crime Substantially Related to the
3 Qualifications, Functions, and Duties of Licensee)

4 21. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the
5 Code in that Respondent has been convicted of a crime that is substantially related to his
6 qualifications, functions, and duties as a pharmacy technician. The circumstances are as follows:

7 22. On or about March 9, 2016, in *People v. Timothy Makram Abraham*, Superior Court
8 of California, County of San Bernardino, case no. FVI1502303, Respondent pled no contest to a
9 felony charge of grand theft: property, etc. over \$400. Respondent was ordered to pay fines and
10 restitution, sentenced to two days in jail, and placed on three years' probation. The facts and
11 circumstances of this conviction are as follows:

12 23. On or about September 3, 2015, an officer from the San Bernardino sheriff's
13 department was dispatched to a Rite Aid located in Victorville to investigate an employee who
14 was detained for theft. Upon the officer's arrival at the Rite Aid, the officer met with Rite Aid's
15 asset protection district manager who informed the officer that Rite Aid had discovered a
16 discrepancy for several controlled substances consisting of 1,271 Carisoprodol 250mg tablets,
17 454 Tramadol 50mg tablets, and 127 Acetaminophen/Codeine #3 tablets. Rite Aid's asset
18 protection district manager also informed the officer that during the week of August 23, 2015,
19 there was another shortage of seventy-six Carisoprodol 350mg pills. Respondent was working on
20 the days the pills were missing. Rite Aid's asset protection district manager informed the officer
21 that on September 3, 2015, he interviewed Respondent about the thefts and Respondent wrote an
22 apology letter admitting to the thefts. When Respondent spoke with the officer, Respondent
23 admitted to stealing narcotics for six months. Respondent admitted to stealing Soma, Tramadol,
24 and dronabinol. Respondent admitted to stealing on approximately ten to twelve occasions.
25 Respondent stated that he stole the pills because he was stressed and had back pain.

26 ///

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct—Commission of Acts Involving Moral Turpitude, Dishonesty,**
3 **Fraud, Deceit, or Corruption)**

4 24. Respondent is subject to disciplinary action under section 4301(f) of the Code, by and
5 through section 4060 of the Code, in that Respondent committed acts involving moral turpitude,
6 dishonesty, fraud, deceit, or corruption. The facts and circumstances are described with more
7 particularity in paragraphs 21 through 23, above.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct—Administering to Oneself Any Controlled Substance, or the Use**
10 **of Any Dangerous Drug to the Extent or in a Manner as to be Dangerous or Injurious to**
11 **Oneself, to a Person Holding a License Under This Chapter, or to Any Person or to the**
12 **Public, or to the Extent That the Use Impairs the Ability of the Person to Conduct With**
13 **Safety to the Public the Practice Authorized by the License)**

14 25. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
15 Respondent administered to himself controlled substances or dangerous drugs to the extent or in a
16 manner as to be dangerous or injuries to himself, any person of the public, or to the extent that the
17 use impaired his ability to conduct with safety to the public the practice authorized by his license.
18 The facts and circumstances are described with more particularity in paragraph 23, above.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct—Violation of Statutes of This State and the United States**
21 **Regulating Controlled Substances and Dangerous Drugs)**

22 26. Respondent is subject to disciplinary action under section 4301(j) of the Code, by and
23 through sections 4059, subdivision (a), and 4060 of the Code, sections 11170, 11171, 11173, and
24 11350 of the Health and Safety Code, and section 829(b) of Title 21 of the United States Code, in
25 that Respondent violated the statutes of this state and the United States regulating controlled
26 substances and dangerous drugs. The facts and circumstances are described with more
27 particularity in paragraphs 21 through 23, above.

28 ///

1 FIFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct—Violating or Attempting to Violate Any Provision or Term of
3 This Chapter or of the Applicable Federal and State Laws and Regulations Governing
4 Pharmacy)

5 27. Respondent is subject to disciplinary action under section 4301(o) of the Code, by
6 and through section 4060 of the Code, sections 11170, 11171, 11173, and 11350 of the Health
7 and Safety Code, and section 829(b) of Title 21 of the United States Code, in that Respondent
8 violated or attempted to violate the provisions of the terms of this chapter and the applicable
9 federal and state laws and regulations governing pharmacy. The facts and circumstances are
10 described with more particularity in paragraphs 21 through 23, above.

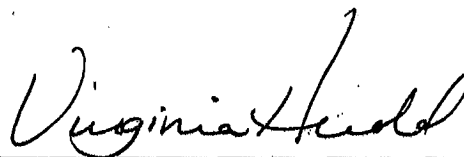
11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board issue a decision:

- 14 1. Revoking or suspending Pharmacy Technician Registration No. TCH 135177, issued
15 to Timothy Makram Abraham;
- 16 2. Ordering Timothy Makram Abraham to pay the Board of Pharmacy the reasonable
17 costs of investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 125.3; and,
- 19 3. Taking such other and further action as deemed necessary and proper.

20
21
22 DATED: _____

7/11/17



23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

LA2016601628
12439537_3.doc
5/24/2017