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

10 In the Matter of the Accusation Against:

11 **SELENA CHRISTINE YEPEZ**
12 22057 Aleut Road
13 Apple Valley, CA 92308
14 **Pharmacy Technician Registration No. TCH**
15 **138506,**

16 Respondent.

Case No. 5947

OAH No. 2017050312

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

17 FINDINGS OF FACT

18 1. On or about March 7, 2017, Complainant Virginia K. Herold, in her official capacity
19 as the Executive Officer of the California State Board of Pharmacy, filed Accusation No. 5947
20 against Selena Christine Yopez (Respondent) before the Board of Pharmacy (Board). (A copy of
21 the Accusation is attached hereto as Exhibit A.)

22 2. On or about February 20, 2014, the Board issued Pharmacy Technician Registration
23 No. TCH 138506 to Respondent. The Pharmacy Technician Registration was in full force and
24 effect at all times relevant to the charges brought in Accusation No. 5947 and will expire on
25 March 31, 2019, unless renewed.

26 3. On or about March 15, 2017, Respondent was served by Certified and First Class
27 Mail with copies of Accusation No. 5947, Statement to Respondent, Notice of Defense, Request
28 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, is required to be reported and maintained with the Board. Respondent's address of
2 record was and is: 22057 Aleut Road, Apple Valley, CA 92308.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 5. On or about March 17, 2017, Respondent signed and returned a Notice of Defense,
7 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
8 address of record and it informed her that an administrative hearing in this matter was scheduled
9 for July 25, 2017.

10 6. The matter was called for hearing at the date, time and location set forth in the Notice
11 of Hearing. The assigned Administrative Law Judge found that the service of the Notice of
12 Hearing on Respondent was proper. There was no appearance by or on behalf of Respondent. A
13 default was declared and on motion of counsel for Complainant, the matter was remanded to the
14 Board under Government Code section 11520.

15 7. Government Code section 11506(c) states, in pertinent part:

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

21 8. California Government Code section 11520(a) states, in pertinent part:

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

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 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. 5947, finds that

1 the charges and allegations in Accusation No. 5947, 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 \$8,672.50 as of July 25, 2017.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Selena Christine Yopez has
8 subjected her Pharmacy Technician Registration No. TCH 138506 to discipline.

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

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

14 a. Section 4301, subdivision (f), Acts Involving Dishonesty, Fraud, or Corruption;

15 b. Section 4301, subdivision (h), Use of a Controlled Substance; and

16 c. Section 4301, subdivision (j), Illegally Obtaining or Possessing Controlled

17 Substances.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 138506, heretofore issued to Respondent Selena Christine Yepez, 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 at 5:00 p.m. on November 15, 2017.

It is so ORDERED on October 16, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

Exhibit A

Accusation

(SELENA CHRISTINE YEPEZ)

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12 **SELENA CHRISTINE YEPEZ**
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14 Pharmacy Technician Registration
No. TCH 138506
15
16 Respondent.

Case No. 5947
A C C U S A T I O N

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 February 20, 2014, the Board issued Pharmacy Technician Registration
22 No. TCH 138506 to Selena Christine Yopez (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 March 31, 2017, 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.

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1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 10. **CONTROLLED SUBSTANCE AND/OR DANGEROUS DRUGS**

4 a. "Norco," is the brand name for the combination narcotic, Hydrocodone and
5 Acetaminophen, and is a Schedule II controlled substance pursuant to Health and Safety Code
6 section 11055(b)(1)(I) and is categorized as a dangerous drug pursuant to section 4022.

7 b. "Soma," is a brand name for carisoprodol, and is a Schedule IV controlled substance
8 pursuant to the Department of Justice Controlled Substance Act and is categorized as a dangerous
9 drug pursuant to section 4022.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Acts Involving Dishonesty, Fraud, Deceit, or Corruption)**

12 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that
13 on or about December 21, 2015, while employed as a pharmacy technician working at CVS
14 #9650, in Victorville, CA, Respondent admitted she committed acts involving dishonesty, fraud,
15 deceit, or corruption with the intent to substantially benefit herself, or substantially injure another
16 when she admitted to taking 10 generic Norco tablets and 20 generic Soma tablets from the
17 pharmacy drug stock for self- use. Subsequently, San Bernardino County Sheriff's deputies were
18 called and Respondent was arrested for violating Penal Code section 490.5/4588 (retail petty
19 theft).

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Use of a Controlled Substance)**

22 12. Respondent is subject to disciplinary action under section 4301, subdivision (h) and (j),
23 in that, Respondent by her own admission used a controlled substance and/or dangerous drug.
24 Complainant refers to, and by this reference incorporates, the allegations set forth above in
25 paragraph 11, as though set forth fully.

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