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

In the Matter of the Accusation Against:

NATHANIEL DVON SPENCER
14608 W. Kearney Blvd., #57
Kerman, CA 93630

**Pharmacy Technician Registration
No. TCH 164744**

Respondent.

Case No. 6674

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 20, 2019, Complainant Anne Sodergren, in her official capacity as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 6674 against Nathaniel Dvon Spencer (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 8, 2018, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 164744 to Respondent. The Pharmacy Technician Registration expired on June 30, 2019, and has not been renewed.

3. On or about August 28, 2019, Respondent was served by Certified and First Class Mail copies of the Accusation No. 6674, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of
4 record was and is:

5 14608 W. Kearney Blvd., #57
6 Kerman, CA 93630.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505(c) and/or Business and Professions Code section 124.

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

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

15 6. The Board takes official notice of its records and the fact that Respondent failed to
16 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
17 waived his right to a hearing on the merits of Accusation No. 6674.

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

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

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 6674,
28 finds that the charges and allegations in Accusation No. 6674, are separately and severally, found
to be true and correct by clear and convincing evidence.

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Exhibit A

Accusation

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STANTON W. LEE
Deputy Attorney General
4 State Bar No. 203563
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7872
Facsimile: (916) 324-5567
7 E-mail: Stanton.Lee@doj.ca.gov
Attorneys for Complainant
8

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

13 In the Matter of the Accusation Against:

Case No. 6674

14 **NATHANIEL DVON SPENCER**
14608 W. Kearney Blvd., #57
15 Kerman, CA 93630

ACCUSATION

16 **Pharmacy Technician Registration**
17 **No. TCH 164744**

Respondent.

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20 **PARTIES**

21 1. Anne Sodergren (“Petitioner”) brings this Accusation solely in her official capacity as
22 the Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer
23 Affairs.

24 2. On or about January 8, 2018, the Board issued Pharmacy Technician Registration
25 Number TCH 164744 to Nathaniel Dvon Spencer (Respondent). The Pharmacy Technician
26 Registration was in full force and effect at all times relevant to the charges brought in this Petition
27 and expired on June 30, 2019. The license is currently delinquent until renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws (all references are to the Business and Professions Code unless otherwise noted):

4 4. Section 4300 states in pertinent part:

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

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

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

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

13 (4) Revoking his or her license.

14 (5) Taking any other action in relation to disciplining him or her as the
15 board in its discretion may deem proper.

16 5. Section 4300.1 states:

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

23 **STATUTORY PROVISIONS**

24 6. Section 820 of the Code states:

25 Whenever it appears that any person holding a license, certificate or permit under this
26 division or under any initiative act referred to in this division may be unable to practice his
27 or her profession safely because the licentiate's ability to practice is impaired due to mental
28 illness, or physical illness affecting competency, the licensing agency may order the
licentiate to be examined by one or more physicians and surgeons or psychologists
designated by the agency. The report of the examiners shall be made available to the
licentiate and may be received as direct evidence in proceedings conducted pursuant to
Section 822.

7. Section 821 of the Code provides that the licentiate's failure to comply with an
order issued under section 820 shall constitute grounds for the suspension or revocation of the
licentiate's certificate of license.

1 **COST RECOVERY**

2 16. Business and Professions Code section 125.3 provides, in pertinent part, that a Board
3 may request the administrative law judge to direct a licentiate found to have committed a
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 **CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with Section 820 Order)**

8 8. Respondent is subject to disciplinary action under Code section 821 in that he failed
9 to comply with an order issued under Code section 820. The circumstances are as follows:

10 9. On or about May 16, 2019, the Board issued an order under Code section 820 that
11 Respondent submit to a mental and/or physical examination conducted by a physician
12 specializing in psychiatry or a psychologist selected by the Board, or its designee, to determine
13 whether Respondent is mentally and/or physically ill to such an extent as to affect his ability to
14 practice as a pharmacy technician safely. The examination was ordered to be conducted no later
15 than thirty (30) days after service of the order. The order was served on Respondent on or about
16 May 16, 2019, and Respondent did not respond or otherwise comply with the Order.

17 **PRAYER**

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

20 1. Revoking or suspending Pharmacy Technician Registration Number TCH 164744,
21 issued to Respondent Nathaniel Dvon Spencer.

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2. Ordering Respondent 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; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: August 20, 2019



ANNE SODERGREN
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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