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

12 In the Matter of the Accusation Against:

13 **JEFFREY JAMES GANDOLFO**  
14 **671 S. Orchard Ave. #1042**  
**Ukiah, CA 95482**

15 **Pharmacy Technician Registration No. TCH 38405**

16  
17 Respondent.

Case No. 6722

**DEFAULT DECISION AND  
ORDER**

[Gov. Code, §11520]

18  
19 **FINDINGS OF FACT**

20 1. On or about July 10, 2020, Complainant Anne Sodergren, in her official capacity as  
21 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed  
22 Accusation No. 6722 against Jeffrey James Gandolfo (Respondent) before the Board of  
23 Pharmacy. (Accusation attached as Exhibit A.)

24 2. On or about June 20, 2002, the Board issued Pharmacy Technician Registration No.  
25 TCH 38405 to Respondent. The Pharmacy Technician Registration was in full force and effect at  
26 all times relevant to the charges brought in Accusation No. 6722 and will expire on September  
27 30, 2021, unless renewed.  
28

1           3.     On or about July 15, 2020, Respondent was served by Certified and First Class Mail  
2 copies of Accusation No. 6722, 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 section 4100,  
5 is required to be reported and maintained with the Board. Respondent's address of record was  
6 and is: 671 S. Orchard Ave. #1042, Ukiah, CA 95482.

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. 6722.

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. 6722,  
28 finds that the charges and allegations in Accusation No. 6722, are separately and severally, found  
to be true and correct by clear and convincing evidence.

          9.     The Board finds that the actual costs for Investigation and Enforcement are \$4,661.25  
as of August 4, 2020.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Jeffrey James Gandolfo has  
3 subjected his Pharmacy Technician Registration No. TCH 38405 to discipline.

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

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
6 Registration based upon the following violations alleged in the Accusation which are supported  
7 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.

8 On or about March 7, 2018, Respondent failed a routine drug screening, testing positive for  
9 D-Methamphetamine, Amphetamine, and Methamphetamine. In doing so, Respondent violated  
10 Business and Professions Code sections 4301 (unprofessional conduct); 4301, subdivision (f)  
11 (moral turpitude); 4301, subdivision (h) (self-administration of controlled substance/dangerous  
12 drug); and 4301, subdivision (j) (violation of law regarding controlled substances/dangerous  
13 drugs).

14 **ORDER**

15 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 38405, issued to  
16 Respondent Jeffrey James Gandolfo, is revoked.

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

21 This Decision shall become effective on October 8, 2020 at 5:00 p.m..

22 It is so ORDERED September 8, 2020

23 FOR THE BOARD OF PHARMACY  
24 DEPARTMENT OF CONSUMER AFFAIRS

25 By



26 Greg Lippe  
27 Board President

28 42293579.DOCX  
DOJ Matter ID:SF2019201017

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

(JEFFREY JAMES GANDOLFO)

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2 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 6722

13 **JEFFREY JAMES GANDOLFO**  
14 **671 S. Orchard Ave. #1042**  
**Ukiah, CA 95482**

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH 38405**

16 Respondent.

17  
18 **PARTIES**

19 1. Anne Sodergren (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 June 20, 2002, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 38405 to Jeffrey James Gandolfo (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 September 30, 2021, unless renewed.

25 **JURISDICTION**

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

4. Code section 4011 provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Code section 4300, subdivision (a) provides that every license issued by the Board may be suspended or revoked.

6. Code section 4300.1 provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, 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.

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

## **STATUTORY PROVISIONS**

8. Code section 4301 states:

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

• • •

(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, of any other state, or of the United States regulating controlled substances and dangerous drugs.

...

9. Code section 4060 states:

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 , or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51 , a nurse practitioner pursuant to Section 2836.1 , a physician assistant pursuant to Section 3502.1 , a naturopathic doctor pursuant to Section 3640.5 , or a pharmacist pursuant to Section 4052.1 , 4052.2 , or 4052.6

### **COST RECOVERY**

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

### **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

11. Code section 4021 states: “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

12. Code section 4022 states, in pertinent part:

“Dangerous drug” or “dangerous device” means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, 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.

13. **Dextroamphetamine (D-Amphetamine)**, trade name **Dexedrine**, is a Schedule II controlled substance under section 11055, subdivision (d)(1) of the Health and Safety Code and a dangerous drug under section 4022 of the Code. When combined with other amphetamine salts, it is sold under the trade names **Adderall** and **Mydayis**. It is a central nervous system stimulant used for the treatment of attention deficit hyperactivity disorder (ADHD) and narcolepsy.

14. **Amphetamine** is a Schedule II controlled substance under section 11055, subdivision (d)(1) of the Health and Safety Code and a dangerous drug under section 4022 of the Code. It is a central nervous system stimulant.

15. **Methamphetamine** is a Schedule II controlled substance under Health and Safety Code section 11055, subdivision (d)(2) and a dangerous drug under section 4022 of the Code. It is a central nervous system stimulant.

## FACTUAL ALLEGATIONS

16. On or about March 7, 2018, Respondent submitted to a drug-screening test as a condition of his continued employment with Cross County Staffing. The test was positive for D-Methamphetamine, Amphetamine, and Methamphetamine.

**FIRST CAUSE FOR DISCIPLINE**

(Unprofessional Conduct)

17. Respondent is subject to discipline under Code section 4301 in that Respondent, as described in paragraph 16 above, committed unprofessional conduct.

## SECOND CAUSE FOR DISCIPLINE

(Moral Turpitude)

18. Respondent is subject to discipline under Code section 4301, subdivision (f) in that Respondent, as described in paragraphs 16 above, committed an act of moral turpitude, dishonesty, fraud, deceit, or corruption.

### THIRD CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substance/Dangerous Drug)

19. Respondent is subject to discipline under Code section 4301, subdivision (h) in that Respondent, as described in paragraph 16 above, self-administered a controlled substance or dangerous drug in a manner as to be dangerous or injurious to himself or the public, or in such a way to impair his ability to safely conduct the practice of a licensed pharmacy technician.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Violation of Law Regarding Controlled Substances/Dangerous Drugs)

3 20. Respondent is subject to discipline under Code section 4301, subdivision (j) in that  
4 Respondent, as described in paragraph 16 above, violated a statute of this state, of any other state,  
5 or of the United States regulating controlled substances and dangerous drugs.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 (Possession of Controlled Substance Without Prescription)

8 21. Respondent is subject to discipline under Code 4060 in that Respondent, as described  
9 in paragraph 16 above, possessed a controlled substance without a valid prescription.

10 **PRAYER**


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

13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 38405,  
14 issued to Jeffrey James Gandolfo;

15 2. Ordering Jeffrey James Gandolfo to pay the Board of Pharmacy the reasonable costs  
16 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
17 section 125.3; and,

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

19  
20  
21 DATED: July 10, 2020

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

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