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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:

Case No. 6772

13 **PAMELA ISABELLA MUNOZ**
14 **1641 Hickam Circle**
Suisun City, CA 94585

DEFAULT DECISION AND ORDER

15 **Original Pharmacy Technician Registration**
16 **No. TCH 163071**

[Gov. Code, §11520]

17 Respondent.

18 **FINDINGS OF FACT**

19
20 1. On or about August 26, 2019, Complainant Anne Sodergren, in her official capacity
21 as the Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer
22 Affairs, filed Accusation No. 6772 against Pamela Isabella Munoz (Respondent) before the
23 Board. (Accusation attached as Exhibit A.)

24 2. On or about November 20, 2017, the Board issued Original Pharmacy Technician
25 Registration No. TCH 163071 to Respondent. The Original Pharmacy Technician Registration
26 expired on July 31, 2019, and has not been renewed.

27 3. On or about September 9, 2019, Respondent was served by Certified and First Class
28 Mail copies of the Accusation No. 6772, 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: 1641 Hickam Circle, Suisun City, CA 94585.

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

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

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

13 6. The Board takes official notice of its records and the fact that Respondent failed to
14 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
15 waived her right to a hearing on the merits of Accusation No. 6772.

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

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
24 as well as taking official notice of all the investigatory reports, exhibits and statements contained
25 therein on file at the Board's offices regarding the allegations contained in Accusation No. 6772,
26 finds that the charges and allegations in Accusation No. 6772, are separately and severally, found
27 to be true and correct by clear and convincing evidence.

28 9. The Board finds that the actual costs for Investigation and Enforcement are
\$6,386.25.00 as of October 4, 2019.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Pamela Isabella Munoz has

1 subjected her Original Pharmacy Technician Registration No. TCH 163071 to discipline.

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

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

7 a. Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption (Bus. &
8 Prof. Code § 4301, subd. (f), (j) and (o).)

9 b. Possession of a Controlled Substance (Bus. & Prof. Code §§ 4060, 4301, subd. (j) and
10 (o); Health & Saf. Code §§ 11350, 11377.)

11 c. Furnishing of Controlled Substances Without Prescription (Bus. & Prof. Code §§
12 4059, subd. (a), 4301, subd. (j) and (o); Health & Saf. Code § 11170.)

13 d. Unprofessional Conduct (Bus. & Prof. Code § 4301.)

14 **ORDER**

15 IT IS SO ORDERED that Original Pharmacy Technician Registration No. TCH 163071,
16 issued to Respondent Pamela Isabella Munoz, 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 at 5:00 p.m. on January 23, 2020.

22 It is so ORDERED on December 24, 2019.

23 FOR THE BOARD OF PHARMACY
24 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

25
26 By



27 Greg Lippe
28 Board President

14169120
DOJ Matter ID:SF2019201762

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **PAMELA ISABELLA MUNOZ**
14 1641 Itickam Circle
Suisun City, CA 94585

15 Pharmacy Technician License No. TCH 163071

16 Respondent.

Case No. 6772

ACCUSATION

17
18 **PARTIES**

19 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
20 as the Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer
21 Affairs.

22 2. On or about November 20, 2017, the Board issued Original Pharmacy Technician
23 Registration Number TCH 163071 to Pamela Isabella Munoz (Respondent). The Original
24 Pharmacy Technician Registration will expire on August 31, 2019, 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.

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

4 5. Section 4300, subsection (a), of the Code states that “(a) Every license issued may be
5 suspended or revoked.”

6 6. Section 4300.1 of the Code states:

7 The expiration, cancellation, forfeiture, or suspension of a board-issued license
8 by operation of law or by order or decision of the board or a court of law, the
9 placement of a license on a retired status, or the voluntary surrender of a license by a
10 licensee shall not deprive the board of jurisdiction to commence or proceed with any
11 investigation of, or action or disciplinary proceeding against, the licensee or to render
12 a decision suspending or revoking the license.

13 **STATUTORY PROVISIONS**

14 7. Section 4059, subdivision (a), of the Code states:

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

20 8. Section 4060 of the Code states:

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

28 9. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
not be 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.
...
(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.

...

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

...

10. Health and Safety Code section 11173, subdivision (a), states:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

11. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

12. Health and Safety Code section 11351, in pertinent part, makes it unlawful to possess for sale or purchase for sale any narcotic controlled substance in Schedules II-IV.

13. Health and Safety Code section 11352, in pertinent part, makes it unlawful to transport, import, sell, furnish, administer, or give away, or offer to transport, import, sell, furnish, administer, or give away, any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

14. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess any non-narcotic drug in Schedules III-V, absent a valid prescription.

COST RECOVERY

15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

16. Section 4021 of the Code states:

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

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

4 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
5 except veterinary drugs that are labeled as such, and includes the following:

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

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

10 18. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for
11 compounds of varying dosages of **acetaminophen (aka APAP) and hydrocodone**, a Schedule
12 III controlled substance as designated by Health and Safety Code section 11056(e)(4) and
13 dangerous drug as designated by Business and Professions Code section 4022, used for pain
14 relief. The varying compounds are also known generically as Hydrocodone with APAP. These are
15 all narcotic drugs. Products like these that combine hydrocodone with non-controlled substances
16 are also called hydrocodone combination products. Effective October 6, 2014, hydrocodone
17 combination products were switched at the federal level from Schedule III (21 C.F.R. §
18 1308.13(e)(1)(iii) and (iv)) to Schedule II (21 C.F.R. § 1308.12(b)(1)). This includes
19 Hydrocodone with APAP drugs.

20 **FACTUAL ALLEGATIONS**

21 19. On or about May 2, 2019, Respondent was asked about a missing one hundred dollar
22 bill from the till at CVS Pharmacy #7141, where Respondent worked in Napa, California.
23 Respondent admitted to stealing cash from the cash register at least five to fifteen times over the
24 period of about one year. Respondent estimated stealing a sum total of \$500.00, and agreed to
25 reimburse CVS \$596.00 for the stolen cash.

26 20. In addition, Respondent admitted to stealing drugs. On one occasion, when a
27 pharmacist went to lunch without locking a safe, Respondent removed one bottle of 100
28 hydrocodone/acetaminophen (Norco) 10-325 mg tablets, and gave it to another to distribute

and/or sell on the street.

21. Respondent filled out a written statement, that she signed and dated, describing the matters discussed, and her involvement with the missing cash. In her written statement, Respondent admitted to stealing cash and the bottle of Norco from CVS Pharmacy #7141.

22. As a result of Respondent's admission, Respondent was terminated from employment with CVS Pharmacy #7141.

FIRST CAUSE FOR DISCIPLINE

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

23. Respondent is subject to disciplinary action under section 4301, subdivisions (f), (j) and (o) of the Code in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit and/or corruption, as set forth above in paragraphs 19-22 above.

SECOND CAUSE FOR DISCIPLINE

(Possession of a Controlled Substance)

24. Respondent is subject to disciplinary action under Code section 4060 and/or Code section 4301, subdivisions (j) and (o), and/or Health and Safety Code section 11350 and/or 11377, in that Respondent possessed, conspired to possess, and/or assisted in or abetted possession of, a controlled substance, without a valid prescription, as set forth above in paragraphs 19-22 above.

THIRD CAUSE FOR DISCIPLINE

(Furnishing of Controlled Substances Without Prescription)

25. Respondent is subject to disciplinary action under section 4059, subdivision (a), and/or section 4301, subdivisions (j) and/or (o), of the Code, and/or Health and Safety Code section 11170 in that Respondent furnished to herself or another without a valid prescription, and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance, as set forth above in paragraphs 19-22 above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

26. Respondent is subject to disciplinary action under section 4301 of the Code in that

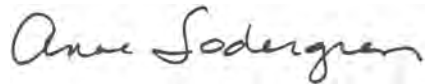
Respondent engaged in unprofessional conduct, as set forth in paragraphs 19-22 above.

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 Original Pharmacy Technician Registration Number TCH 163071, issued to Pamela Isabella Munoz ;
2. Ordering Pamela Isabella Munoz 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 26, 2019



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

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