

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

In the Matter of the Accusation Against:

TERA LYNN DUNBAR, Respondent

Pharmacy Technician License No. TCH 127586

Agency Case No. 6799

DECISION AND ORDER

The attached Stipulated Surrender of License Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on May 20, 2020.

It is so ORDERED on April 20, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", is written over the printed name and title.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
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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. 6799

13 **TERA LYNN DUNBAR**
14 **5545 Indiana Drive**
15 **Concord, CA 94521**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Pharmacy Technician License No. TCH 127586**

Respondent.

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20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of
24 Pharmacy (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Neva L. Tassan,
26 Deputy Attorney General.

27 2. Tera Lynn Dunbar (Respondent) is representing herself in this proceeding and has
28 chosen not to exercise her right to be represented by counsel.

3. On or about October 26, 2012, the Board issued Pharmacy Technician License No. TCH 127586 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 6799 and will expire on November 30, 2021, unless renewed.

JURISDICTION

4. Accusation No. 6799 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 13, 2019. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 6799 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 6799. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 6799, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician License No. TCH 127586 for the Board's formal acceptance.

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9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician License without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 127586, issued to Respondent Tera Lynn Dunbar, is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacy Technician License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against

Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 6799 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 6799 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board's Decision and Order.

7. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$6,629.00 prior to issuance of a new or reinstated license.

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7. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$6,629.00 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 02-24-2020


TERA LYNN DUNBAR
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 2/28/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JOSHUA A. ROOM
Supervising Deputy Attorney General



NEVA L. TASSAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6799

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2 JOSHUA A. ROOM
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14 **5545 Indiana Drive**
Concord, CA 94521

ACCUSATION

15 **Pharmacy Technician License No. TCH 127586**

16 Respondent.
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19 **PARTIES**

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

23 2. On or about October 26, 2012, the Board issued Pharmacy Technician License
24 Number TCH 127586 to Tera Lynn Dunbar (Respondent). The Pharmacy Technician License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 November 30, 2021, unless renewed.

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1 **JURISDICTION**

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

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

8 5. Section 4300(a) of the Code provides that every license issued by the Board may be
9 suspended or revoked.

10 6. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
11 suspension of a Board-issued license, the placement of a license on a retired status, or the
12 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
13 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
14 licensee or to render a decision suspending or revoking the license.

15 **STATUTORY AND REGULATORY PROVISIONS**

16 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
17 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
18 not be limited to, any of the following:

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

22 ...

23 (j) The violation of any of the statutes of this state, of any other state, or of the United
24 States regulating controlled substances and dangerous drugs.

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

5 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
6 drug or dangerous device except upon the prescription of an authorized prescriber.

7 9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
8 controlled substance, except that furnished upon a valid prescription/drug order.

9 10. Health and Safety Code section 11170 provides that no person shall prescribe,
10 administer, or furnish a controlled substance for himself or herself.

11 11. Health and Safety Code section 11173, subdivision (a), provides that no person shall
12 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
13 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
14 or subterfuge; or (2) by the concealment of a material fact.

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

18 13. Health and Safety Code section 11352, in pertinent part, makes it unlawful to
19 transport, import into this state, sell, furnish, administer, or give away, or offer to transport,
20 import into this state, sell, furnish, administer, or give away, or attempt to import into this state or
21 transport (1) any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of
22 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of
23 Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision
24 (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V, absent a
25 valid description.

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14. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by her license or registration in a manner consistent with the public health, safety, or welfare.

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 of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

16. Section 4021 of the Code states:

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

17. Section 4022 of the Code 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.”

18. Hydrocodone combination products, including hydrocodone with acetaminophen, also known as hydrocodone with APAP, are Schedule II controlled substances as designated by Health and Safety Code section 11055(b)(1)(I) and are dangerous drugs per Code section 4022. These are all narcotic drugs.

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FACTUAL SUMMARY

19. From on or about January 29, 2019 until on or about May 2, 2019, Respondent worked as a pharmacy technician at a Walgreens Pharmacy (PHY 52697) in Pleasant Hill, California.

20. During the tenure of her employment, Respondent took advantage of her access as a pharmacy technician to divert/steal dangerous drugs and/or controlled substances, including but not necessarily limited to hydrocodone/acetaminophen.

21. The exact number of instances of diversion/theft by Respondent, and the full quantity of controlled substances or dangerous drugs diverted/stolen by Respondent, are not known, but in the course of investigations conducted by the pharmacy and by the Board, the following were among the observations, admissions, and revelations reported:

a. On or about May 2, 2019, members of the pharmacy Asset Protection team viewed video surveillance dated on or about April 30, 2019. The video showed Respondent counting tablets for purposes of assisting with filling a prescription for hydrocodone/acetaminophen 5-325 mg. Rather than return the excess tablets to the stock bottle as required, Respondent placed the excess tablets into a vial and walked out of view of the camera.

b. On or about May 2, 2019, an Asset Protection Manager interviewed Respondent. Respondent admitted in a written statement that she took approximately forty (40) to sixty (60) hydrocodone/acetaminophen 5-325mg and 10-325mg tablets and gave these tablets to a family member who was in pain.

c. Respondent was terminated at the conclusion of the May 2, 2019 interview.

d. On July 9, 2019, Respondent admitted to the Board's investigator that she took handfuls of hydrocodone/acetaminophen tablets on approximately five or six occasions. Respondent stated that she could not recall the amount of tablets or exact dates of the events.

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1 e. On August 6, 2019, Respondent admitted to the Board investigator that she
2 took handfuls of the hydrocodone/acetaminophen 5-325mg and 10-325mg tablets for a family
3 member who suffered from cancer. Respondent estimated that she took fifteen to twenty tablets
4 at a time.

5 f. On or about May 13, 2019, the pharmacy filed a Report of Theft or Loss of
6 Controlled Substances with the DEA and with the Board reporting the following total quantity of
7 lost/stolen controlled substances lost to “employee theft (or suspected)” valued at \$5,163:

- 8 • 683 hydrocodone/acetaminophen 10-325mg tablets
- 9 • 430 hydrocodone/acetaminophen 5-325mg tablets
- 10 • 42 tablets of alprazolam .25mg tablets
- 11 • 447 tablets of dextroamphetamine/amphetamine combo ER 20mg capsules
- 12 • 228 clonazepam tablets
- 13 • 91 diazepam tablets
- 14 • 1 morphine sulfate ER 60mg tablet
- 15 • 72 ml promethazine with codeine syrup

16 g. On or about July 15, 2019, Board Inspector Sara Mullen completed an
17 expanded audit of all acquisition and disposition records provided by Walgreens, which showed
18 that between June 10, 2017 and June 14, 2019, the pharmacy had lost:

- 19 • 893 hydrocodone/acetaminophen 10-325mg tablets
- 20 • 527 hydrocodone/acetaminophen 5-325mg tablets
- 21 • 71 tablets of alprazolam .25mg tablets
- 22 • 167 tablets of dextroamphetamine/amphetamine combo ER 20mg capsules
- 23 • 173 clonazepam tablets
- 24 • 311 diazepam tablets
- 25 • 19 morphine sulfate ER 60mg tablets
- 26 • 209 ml promethazine with codeine syrup

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1 **FIRST CAUSE FOR DISCIPLINE**

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

3 22. Respondent is subject to discipline under section 4301(f) of the Code, in that
4 Respondent, as described in paragraphs 19-21 above, committed acts involving moral turpitude,
5 dishonesty, fraud, deceit, or corruption.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Furnishing of Controlled Substance(s))**

8 23. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
9 4059 of the Code, and/or Health and Safety Code section 11170 and 11352, in that Respondent,
10 as described in paragraphs 19-21 above, furnished to herself or another, and/or conspired to
11 furnish, and/or assisted or abetted furnishing of, a dangerous drug or controlled substance,
12 without a prescription.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Possession of Controlled Substance(s))**

15 24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
16 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described
17 in paragraphs 19-21 above, possessed, conspired to possess, and/or assisted in or abetted
18 possession of, a controlled substance, without a valid prescription.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)**

21 25. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
22 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
23 19-21 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
24 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct)**

27 26. Respondent is subject to discipline under section 4301 of the Code in that
28 Respondent, as described in paragraphs 19-25 above, engaged in unprofessional conduct.

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 Pharmacy Technician License Number TCH 127586, issued to Tera Lynn Dunbar;
2. Ordering Tera Lynn Dunbar 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: December 12, 2019



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

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