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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 **LESLIE ELISA DOMINGUEZ**  
14 **1207 W. 186th Street**  
**Gardena, CA 90248**

15 **Pharmacy Technician Registration No. TCH**  
16 **66758**

17 Respondent.  
18

Case No. 6804

19 **DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

20 **FINDINGS OF FACT**

21 1. On or about March 30, 2020, Complainant Anne Sodergren, in her official capacity as  
22 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
23 Accusation No. 6804 against Leslie Elisa Dominguez (Respondent) before the Board of  
24 Pharmacy. (Accusation attached as exhibit A.)

25 2. On or about December 28, 2005, the Board of Pharmacy (Board) issued Pharmacy  
26 Technician Registration No. TCH 66758 to Respondent. The Pharmacy Technician Registration  
27 was in full force and effect at all times relevant to the charges brought in Accusation No. 6804  
28 and will expire on May 31, 2021, unless renewed.

1           3.     On or about April 7, 2020, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. 6804, 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 and  
6 is:

7                   1207 W. 186th Street  
8                   Gardena, CA 90248.

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

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

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

17          6.     The Board takes official notice of its records and the fact that Respondent failed to  
18 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore  
19 waived her right to a hearing on the merits of Accusation No. 6804.

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

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

25          8.     Pursuant to its authority under Government Code section 11520, the Board finds  
26 Respondent is in default. The Board will take action without further hearing and, based on the  
27 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
28 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. 6804,  
finds that the charges and allegations in Accusation No. 6804, are separately and severally, found

1 to be true and correct by clear and convincing evidence.

2 9. The Board finds that the actual costs for investigation and enforcement are \$8,998.75  
3 as of May 26, 2020.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent Leslie Elisa Dominguez has  
6 subjected her Pharmacy Technician Registration No. TCH 66758 to discipline.

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

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

11 a. Unprofessional conduct based on theft of a controlled substance. (Bus. & Prof. Code,  
12 §§ 4300, 4301, subds. (f), (j) & (o); Cal. Code Regs., tit. 16, § 11173, subd. (a).)

13 b. Unprofessional conduct based on self-administration of a controlled substance or  
14 dangerous drug. (Bus. & Prof. Code, §§ 4300, 4301, subds. (h) & (j); Health & Saf. Code, §§  
15 11550, subd. (a) & 11170.)

16 c. Unprofessional conduct based on possession of a controlled substance or dangerous  
17 drug without a prescription. (Bus. & Prof. Code, §§ 4300, 4301, subd. (j), & 4060.)

18 d. Unprofessional conduct based on acts that would warrant denial of license. (Bus. &  
19 Prof. Code, §§ 4300 & 4301, subd. (p).)

20 e. Substantially related conviction: theft of controlled substances. (Bus. & Prof. Code,  
21 §§ 4300 & 4301, subd. (l).)

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**ORDER**

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 66758, issued to Respondent Leslie Elisa Dominguez, 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 on August 26, 2020.

It is so ORDERED July 27, 2020



Greg Lippe  
Board President  
FOR THE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS

34080821.DOCX  
DOJ Matter ID:LA2019504070

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 XAVIER BECERRA  
Attorney General of California  
2 CARL SONNE  
Senior Assistant Attorney General  
3 SHAWN P. COOK  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*  
7

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. 6804

13 **LESLIE ELISA DOMINGUEZ, aka LEAH**  
14 **ELISA PADILLA**  
1207 W. 186th Street  
15 Gardena, CA 90248

**ACCUSATION**

16 **Pharmacy Technician Registration No. TCH**  
17 **66758**

Respondents.

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 December 28, 2005, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 66758 to Leslie Elisa Dominguez (Respondent Dominguez). The  
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
24 brought herein and will expire on May 31, 2021, unless renewed.

25 **JURISDICTION**

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

1           4.     Section 4300 of the Code states, in pertinent part:

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

3           ...

4           5.     Section 4300.1 of the Code states:

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

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

14          7.     Section 22 of the Code states in pertinent part:

15          "(a) "Board" as used in any provisions of this Code, refers to the board in which the  
16 administration of the provision is vested, and unless otherwise expressly provided, shall include  
17 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and  
18 'agency.'

19          ...

20          8.     Section 150 of the Code states: "The department is under the control of a civil  
21 executive officer who is known as the Director of Consumer Affairs."

22          9.     Section 477 of the Code states:

23          As used in this division:

24                 "(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,'  
25 'examining committee,' 'program,' and 'agency.'

26                 "(b) 'License' includes certificate, registration or other means to engage in a  
27 business or profession regulated by this code."  
28

10. Section 4011 of the Code 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.].

## **STATUORY PROVISIONS**

11. Section 4038 of the Code states:

“(a) ‘Pharmacy technician’ means an individual who assists a pharmacist in a pharmacy in the performance of his or her pharmacy related duties, as specified in Section 4115.”

12. Section 4060 of the Code provides in pertinent part:

“No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse midwife,. . . a nurse practitioner. . . , or a physician assistant. . .”

13. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license that 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.

• • •

"(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.

• • •

(l) The conviction of a crime substantially related to the qualifications, functions, and



1 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
2 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
3 substances or of a violation of the statutes of this state regulating controlled substances or  
4 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
5 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
6 The board may inquire into the circumstances surrounding the commission of the crime, in order  
7 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
8 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
9 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty  
10 or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
11 meaning of this provision. The board may take action when the time for appeal has elapsed, or  
12 the judgment of conviction has been affirmed on appeal or when an order granting probation is  
13 made suspending the imposition of sentence, irrespective of a subsequent order under Section  
14 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a  
15 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
16 or indictment.

17 . . .

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

22 (p) Actions or conduct that would have warranted denial of a license.”

23 14. Section 4324 of the Code states: "Any person who, while on duty, sells, dispenses  
24 or compounds any drug while under the influence of any dangerous drug or alcoholic beverages  
25 shall be guilty of a misdemeanor.”

26 15. Health and Safety Code section 11208 states:

27 “In a prosecution under this division, proof that a defendant received or has had in his  
28 possession at any time a greater amount of controlled substances than is accounted for by any

1 record required by law or that the amount of controlled substances possessed by the defendant is a  
2 lesser amount than is accounted for by any record required by law is prima facie evidence of  
3 guilt.”

4 16. Health and Safety Code section 11550 (a) states in pertinent part:

5 “(a) No person shall use, or be under the influence of any controlled substance which is (1)  
6 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,  
7 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified  
8 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)  
9 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in  
10 Schedule III, IV, or V, except when administered by or under the direction of a person licensed  
11 by the state to dispense, prescribe, or administer controlled substances. . . .”

12 17. Health and Safety Code section 11170, states:

13 “No person shall prescribe, administer, or furnish a controlled substance for himself.”

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

### 18 **COST RECOVERY**

19 19. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
20 the administrative law judge to direct a licentiate found to have committed a violation of the  
21 licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

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

23 20. Section 4021 of the Code states:

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

26 21. Section 4022 of the Code states, in pertinent part:

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

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

3 . . .

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

6 22. Xanax, a brand name for Alprazolam, is an anti-anxiety benzodiazepin and is a  
7 Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1)  
8 and is categorized as a dangerous drug pursuant to section 4022(c) of the Code. Its indicated use  
9 is for anxiety.

10 23. Valium, a trade name for the chemical substance Diazepam, a benzodiazepam  
11 derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section  
12 11057(d)(9) and is categorized as a dangerous drug pursuant to Business and Professions Code  
13 section 4022. Its indicated use is for anxiety.

14 24. Ativan, a brand name for Lorazepam, a benzodiazepine derivative, is a Schedule  
15 IV controlled substance as designated by Health and Safety Code section 11057, subdivision  
16 (d)(16), and is categorized as a dangerous drug pursuant to Business and Professions Code section  
17 4022. Its indicated use is for anxiety.

18 25. Soma, a brand name for Carisoprodol, is a dangerous drug according to Business  
19 and Professions Code section 4022. Its indicated use is as an adjunct to rest, physical therapy and  
20 other measures for acute painful musculoskeletal conditions.

### 21 **FACTS ALLEGED**

22 26. Respondent Dominguez was employed as a pharmacy technician at Walgreens #  
23 06157; 946 S. Brookhurst St.; Anaheim, CA 92804 (Walgreens) from January 19, 2006 through  
24 March 19, 2019 when she was terminated by Walgreens for admitted theft of drugs. On March  
25 15, 2019, a Walgreens asset protection manager (APM) went to the store to review pharmacy  
26 video footage due to negative adjustments made for Alprazolam and Diazepam. Video footage  
27 date stamped March 11, 2019 between 15:51:30 and 15:51:53, shows Respondent Dominguez,  
28 opening a sealed medication bottle, pouring some of the contents into her left hand/palm and

1 some onto a counting tray. With her left palm closed, Respondent poured medication from the  
2 counting tray back into the bottle, capped it then placed the bottle on the shelf. Between 15:51:56  
3 and 15:53:00, Respondent Dominguez completed the task of counting, pouring, and labeling a  
4 prescription vial. Between 15:53:02 and 15:53:04, Respondent placed her closed palm into her  
5 the left pocket of her smock.

6 27. Based on what she observed from the videos, the APM and the Walgreens assistant  
7 store manager (ASM) interviewed Respondent Dominguez, who initially denied knowledge of the  
8 missing medications but later admitted to taking 50 tablets of Alprazolam 2mg. During the  
9 interview, Respondent Dominguez stated she went to Mexico to get Xanax (Alprazolam) and  
10 when this was not enough, she admitted taking it from Walgreens. Respondent admitted to  
11 taking about 5 tablets per day and denied taking other medications.

12 28. The ASM observed that Respondent Dominguez seemed “out of it” and while stating  
13 that she took Xanax, she wrote in her statement that she took Lorazepam instead. Respondent  
14 denied knowledge of other missing medications and after providing her written statement her  
15 employment with Walgreens was terminated.

16 29. On or about April 2, 2019, the Board received notification from Walgreens via a DEA  
17 form 106 stating the loss of 50 tablets of Alprazolam 2 mg. due to employee theft and that the  
18 employee was terminated. A Board investigator was assigned the matter and during the course of  
19 her investigation, on April 30, 2019 she interviewed Respondent. Respondent admitted that she  
20 began diverting controlled substances from her employer sometime in November 2018 when she  
21 had to go back to work after her father suddenly passed away. Respondent stated that her father’s  
22 death was very difficult for her, particularly when she made the decision to take her father off life  
23 support. Respondent stated that she took Lorazepam. When the investigator asked Respondent if  
24 she had diverted medications similar to Lorazepam, such as Alprazolam, Respondent stated the  
25 only medication she took was Lorazepam.

26 30. On or about April 11, 2019, the Board received notification from Walgreens via an  
27 amended DEA form 106 reporting the following losses due to employee theft:  
28

- Alprazolam 1mg tablet, #212
- Alprazolam 2mg tablet, #465
- Carisoprodol 350mg tablet, #1,720 tablets
- Diazepam 5mg tablet, #19
- Lorazepam 0.5mg tablet, #77
- Lorazepam 1mg tablet, #523
- Lorazepam 2mg tablet, #146

31. The Board investigator conducted an independent audit based on the acquisition and disposition records received from Walgreens. Her findings were that between June 9, 2018 and March 21, 2019, Walgreens had losses and overages of the following controlled substances:

| Alprazolam 0.5mg Tab   | 169 | 11000 | 10763 | 406  | 1414 | (+)1008 |
|------------------------|-----|-------|-------|------|------|---------|
| Alprazolam 1mg Tab     | 590 | 9500  | 9593  | 497  | 285  | (-)212  |
| Alprazolam 2mg Tab     | 310 | 9000  | 8557  | 753  | 238  | (-) 515 |
| Carisoprodol 350mg Tab | 500 | 12500 | 11280 | 1720 | 0    | (-)1720 |
| Diazepam 5mg Tab       | 500 | 5500  | 5686  | 314  | 295  | (-)19   |
| Lorazepam 0.5mg Tab    | 375 | 9000  | 8783  | 592  | 515  | (-)77   |
| Lorazepam 1mg Tab      | 750 | 9500  | 9122  | 1128 | 605  | (-)523  |
| Lorazepam 2mg Tab      | 500 | 500   | 677   | 323  | 177  | (-)146  |

\*Estimate

### **FIRST CAUSE FOR DISCIPLINE**

(Unprofessional Conduct based on Theft of a Controlled Substance)

32. Respondent Dominguez is subject to disciplinary action under sections 4300, 4301, subdivisions (f), (j), and (o), in conjunction with Health and Safety Code section 11173, subd. (a) in that between November 2018 and March 26, 2019, Respondent unlawfully appropriated approximately 212 tablets of 1 mg. Alprazolam, 465 tablets of 2 mg. Alprazolam, 77 tablets of .5 mg. Lorazepam, 523 tablets of 1 mg. Lorazepam and 146 tablets of 2 mg. Lorazepam from her then employer, Walgreens. The circumstances are as alleged in the preceding paragraphs 26 through 31 that are incorporated herein by reference as though fully set forth.

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<sup>1</sup> Variance was the difference between the actual inventory minus the expected inventory. Expected inventory was the difference between the sum of Beginning Inventory and Acquisition minus Disposition.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Substantially Related Conviction: Theft of Controlled Substances)

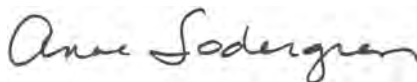
3 36. Respondent Dominguez is subject to disciplinary action under sections 4300, and  
4 4301, subdivision (1), in that Respondent was convicted of a crime substantially related to the  
5 qualifications, functions, and duties of a pharmacy technician. Specifically, on or about April 23,  
6 2019, Respondent was convicted on her guilty pleas to one misdemeanor count of violating Penal  
7 Code sec. 484 subd. (a)- 488 [petty theft] and one misdemeanor count of violating Code sec. 4060  
8 [possess controlled substance without a prescription] in the criminal proceeding entitled *The*  
9 *People of the State of California v. Leslie Elisa Dominguez* (Super. Ct. Orange County, case no.  
10 19NM04926.) The court sentenced Respondent to three years' informal probation, 10 days' jail,  
11 with community service in lieu of jail and to pay restitution. The circumstances are as alleged in  
12 the preceding paragraphs 26 through 31, which are incorporated herein by reference as though  
13 fully set forth.

14 **PRAYER**

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

- 17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 66758,  
18 issued to Leslie Elisa Dominguez;
- 19 2. Ordering Leslie Elisa Dominguez to pay the Board of Pharmacy the reasonable costs  
20 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
21 section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: March 30, 2020



25 ANNE SODERGREN  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
Complainant

LA2019504070