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

In the Matter of the Accusation Against:

**BRANDALYN MARIE HENDERSON
2004 Weldon Lane
Baypoint, CA 94565**

**Pharmacy Technician License No. TCH
141434**

Respondent.

Case No. 6841

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 26, 2020, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 6841 against Brandalyn Marie Henderson (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 12, 2014, the Board of Pharmacy issued Pharmacy Technician License Number TCH 141434 to Brandalyn Marie Henderson (Respondent). The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in this Accusation and expired on May 31, 2020. This lapse in licensure, however, pursuant to Business

1 and Professions Code section 4300.1 does not deprive the Board of its authority to institute or
2 continue this disciplinary proceeding.

3 3. On or about May 28, 2020, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No. 6841, Statement to Respondent, Notice of Defense, Request for
5 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
6 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
7 is required to be reported and maintained with the Board. Respondent's address of record was
8 and is: 2004 Weldon Lane, Baypoint, CA 94565.

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. 6841.

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. 6841,
finds that the charges and allegations in Accusation No. 6841, are separately and severally, found
to be true and correct by clear and convincing evidence.

Exhibit A

Accusation

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 COURTNEY S. LUI
Deputy Attorney General
4 State Bar No. 173064
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-0287
Facsimile: (510) 622-2270
7 E-mail: Courtney.Lui@doj.ca.gov
Attorneys for Complainant

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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. 6841

14 **BRANDALYN MARIE HENDERSON**
15 **2004 Weldon Lane**
Baypoint, CA 94565

ACCUSATION

16 **Pharmacy Technician License No. TCH**
17 **141434**

Respondent.

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20 **PARTIES**

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

23 2. On or about August 12, 2014, the Board of Pharmacy issued Pharmacy Technician
24 License Number TCH 141434 to Brandalyn Marie Henderson (Respondent). The Pharmacy
25 Technician License was in full force and effect at all times relevant to the charges brought in this
26 Accusation and will expire on May 31, 2020, 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 4300 of the Code provides, in pertinent part, that every license issued by the
6 Board is subject to discipline, including suspension or revocation.

7 5. Section 4300.1 of the Code states:

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

13 **STATUTORY PROVISIONS**

14 6. Section 4301 of the Code states:

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

18 . . .

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

22"

23 **COST RECOVERY**

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

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1 **FACTUAL ALLEGATIONS**

2 8. On or about September 20, 2018, Walmart Pharmacy terminated Respondent’s
3 employment as a pharmacy technician for theft of general merchandise. On September 3, 2018,
4 Walmart’s onsite surveillance cameras recorded the following: Respondent finished work and
5 walked to her car in the parking lot. She picked up what appears to be a sales receipt off the
6 ground. Respondent returned inside the Walmart store pushing an empty shopping cart with an
7 empty white Walmart bag in the top basket. Respondent walked through the store with the
8 receipt selecting items and placing them into the shopping cart. Instead of going to a sales
9 register to pay for the items, Respondent went to the customer service desk, and presented the
10 sales receipt to return certain items she had just picked out. Respondent then used the store credit
11 she received for the returned items to purchase other items in the cart.

12 **CAUSE FOR DISCIPLINE**

13 (Unprofessional Conduct – Moral Turpitude, Dishonesty, Fraud & Deceit)

14 9. Respondent has subjected her Pharmacy Technician License to discipline in that she
15 engaged in unprofessional conduct by committing an act involving moral turpitude, dishonesty,
16 fraud, and deceit by walking through a Walmart store with a receipt, selecting matching
17 merchandise, and then returning those items in order to gain store credit. (Bus. & Prof. Code, §
18 4301, subd. (f).) The circumstances are set forth in paragraph 8, above.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
21 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

22 1. Revoking or suspending Pharmacy Technician License Number TCH 141434, issued
23 to Brandalyn Marie Henderson;

24 2. Ordering Brandalyn Marie Henderson to pay the Board of Pharmacy the reasonable
25 costs of the investigation and enforcement of this case, pursuant to Business and Professions
26 Code section 125.3; and,

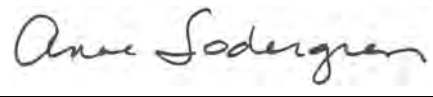
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3. Taking such other and further action as deemed necessary and proper.

DATED: May 26, 2020



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

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