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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. 6950

13 **ROBERT HENRY COWGILL**
14 **5602 Halifax Rd**
Arcadia, CA 91007

DEFAULT DECISION AND ORDER

15 **Pharmacy Technician Registration No. TCH**
16 **168710**

[Gov. Code, §11520]

17 Respondent.
18

19
20 **FINDINGS OF FACT**

21 1. On or about July 10, 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. 6950 against Robert Henry Cowgill (Respondent) before the Board of Pharmacy.
24 (Accusation attached as Exhibit A.)

25 2. On or about November 5, 2018, the Board of Pharmacy (Board) issued Pharmacy
26 Technician Registration No. TCH 168710 to Respondent. The Pharmacy Technician Registration
27 was in full force and effect at all times relevant to the charges brought in Accusation No. 6950
28 and will expire on April 30, 2022, unless renewed.

1 3. On or about July 27, 2020, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 6950, 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: 5602 Halifax Rd, Arcadia, CA 91007.

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. 6950.

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. 6950,
28 finds that the charges and allegations in Accusation No. 6950, are separately and severally, found
to be true and correct by clear and convincing evidence.

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9. The Board finds that the actual costs for Investigation and Enforcement are \$2,940.00 as of September 9, 2020.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Robert Henry Cowgill has subjected his Pharmacy Technician Registration No. TCH 168710 to discipline.

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

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

a. Respondent is subject to disciplinary action under Business and Professions Code section 4301, subsection (h) in that on October 26, 2019, Respondent engaged in unprofessional conduct by ingesting cocaine, which is a controlled substance, to the extent or in a manner as to be dangerous or injurious to oneself, any other person or public; and

b. Respondent is subject to disciplinary action under Code section 4301, subsection (j), in that Respondent engaged in unprofessional conduct by violating statutes regulating controlled substances and dangerous drugs. Specifically, Respondent violated California Health and Safety Code Section 11350 [Possession of a Controlled Substance – Cocaine], California Health and Safety Code section 11370.1(a) [Possession of Narcotics with Firearm], California Health and Safety Code section 11550(a) [Under the Influence of a Controlled Substance], and Health and Safety Code section 11359(b) [Possession for Sales of Marijuana].

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 168710, issued to Respondent Robert Henry Cowgill, 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

1 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

2 This Decision shall become effective on November 25, 2020 at 5:00 p.m.

3 It is so ORDERED on October 26, 2020.

4 FOR THE BOARD OF PHARMACY
5 DEPARTMENT OF CONSUMER AFFAIRS
6 STATE OF CALIFORNIA

7 By



8 Greg Lippe
9 Board President

10 63573472.DOCX
11 DOJ Matter ID:LA2020600439

12 Attachment:
13 Exhibit A: Accusation

Exhibit A

Accusation

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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. 6950

13 **ROBERT HENRY COWGILL**
14 **5602 Halifax Rd**
Arcadia, CA 91007

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
16 **168710**

17 Respondent.

18
19 **PARTIES**

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

22 2. On or about November 5, 2018, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 168710 to Robert Henry Cowgill (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on April 30, 2022, 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
9 by operation of law or by order or decision of the board or a court of law, the
10 placement of a license on a retired status, or the voluntary surrender of a license by a
11 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.

12 **STATUTORY PROVISIONS**

13 6. Section 4301 of the Code states:

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

17 ...

18 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
19 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
20 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
21 to the extent that the use impairs the ability of the person to conduct with safety to the public the
22 practice authorized by the license.

23 ...

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

26 7. California Health and Safety Code Section 11350, subsection (a), states:

27 (a) Except as otherwise provided in this division, every person who possesses (1) any
28 controlled substance specified in subdivision (b), (c), (e), or

1 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
2 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
3 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
4 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
5 licensed to practice in this state, shall be punished by imprisonment in a county jail for not more
6 than one year, except that such person shall instead be punished pursuant to subdivision (h) of
7 Section 1170 of the Penal Code if that person has one or more prior convictions for an offense
8 specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of
9 the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290
10 of the Penal Code.

11 8. California Health and Safety Code section 11370.1, subsection (a), states:

12 (a) Notwithstanding Section 11350 or 11377 or any other provision of law, every person
13 who unlawfully possesses any amount of a substance containing cocaine base, a substance
14 containing cocaine, a substance containing heroin, a substance containing methamphetamine, a
15 crystalline substance containing phencyclidine, a liquid substance containing phencyclidine, plant
16 material containing phencyclidine, or a hand-rolled cigarette treated with phencyclidine while
17 armed with a loaded, operable firearm is guilty of a felony punishable by imprisonment in the
18 state prison for two, three, or four years.

19 9. California Health and Safety Code section 11550, subsection (a), states:

20 (a) A person shall not use, or be under the influence of any controlled substance that is (1)
21 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
22 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
23 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
24 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
25 Schedule III, IV, or V, except when administered by or under the direction of a person licensed
26 by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of
27 the defense to show that it comes within the exception. A person convicted of violating this
28 subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not more than

1 one year in a county jail. The court may also place a person convicted under this subdivision on
2 probation for a period not to exceed five years.

3 10. California Health and Safety Code section 11359, subsection (b), states:

4 Every person who possesses for sale any cannabis, except as otherwise provided by law,
5 shall be punished as follows:

6 ...

7 (b) Every person 18 years of age or over who possesses cannabis for sale shall be
8 punished by imprisonment in a county jail for a period of not more than six months or by a fine of
9 not more than five hundred dollars (\$500), or by both such fine and imprisonment.

10 **COST RECOVERY**

11 11. Section 125.3 of the Code states, in pertinent part, that the Board may request the
12 administrative law judge to direct a licensee found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 **CONTROLLED SUBSTANCES**

16 12. Cocaine is classified as a Schedule II controlled substance under California Health
17 and Safety Code section 11055, subsection (b)(6).

18 13. Cannabis is classified as a Schedule I controlled substance under California Health
19 and Safety Code section 11054, subsection (d)(13).

20 **FACTUAL ALLEGATIONS**

21 14. On or about October 26, 2019, officers from the Los Angeles County Sheriff's
22 Department were called to Respondent's residence for suspected robbery. Upon arrival, one of
23 the officers spoke with Respondent, who stated that he grabbed his handgun and fired a round
24 into the air while arguing with his friend regarding money that had gone missing. While speaking
25 with the officer, Respondent displayed signs and symptoms of someone being under the influence
26 of a controlled substance, including but not limited to rapid fidgety hand movements.

27 15. After speaking with Respondent, the officers entered Respondent's residence and
28 observed an unloaded firearm, a magazine with four bullets loaded, and a large plastic bag

1 containing marijuana, more than 28.5 grams, sitting in plain view. After Respondent realized that
2 the officers had observed the bag of marijuana, he stated, "Yeah, that's my bag of marijuana."

3 16. Respondent also opened and showed his canvas bag to the officers, which contained
4 two separate large amounts of U.S. currency wrapped with rubber bands, other large amounts of
5 loose U.S. currency, and two digital scales with one scale containing a green leafy substance
6 resembling marijuana residue. The officers formed the opinion that Respondent was in
7 possession of marijuana for sale and arrested Respondent.

8 17. Subsequent to the arrest, an officer searched Respondent and recovered two plastic
9 bags containing a white powdery substance resembling cocaine from Respondent's front left pant
10 pocket. While transporting Respondent to the police station, Respondent stated that prior to the
11 officers' arrival, he ingested cocaine by snorting to calm his nerves. When an officer asked
12 Respondent about the contents of the two plastic bags from his left pant pocket, Respondent
13 replied, "That's cocaine. For personal use."

14 18. Respondent was arrested for violating California Health and Safety Code section
15 11370.1(a) [Possession of Narcotics with Firearm], California Health and Safety Code section
16 11550(a) [Under the Influence of a Controlled Substance], and Health and Safety Code section
17 11359(b) [Possession for Sales of Marijuana].

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Use of Controlled Substance)

20 19. Respondent is subject to disciplinary action under Code section 4301, subsection (h)
21 in that on October 26, 2019, Respondent engaged in unprofessional conduct by ingesting cocaine,
22 which is a controlled substance, to the extent or in a manner as to be dangerous or injurious to
23 oneself, any other person or public. Paragraphs 12 to 18 are re-alleged as if fully set forth herein.

24 **SECOND CAUSE FOR DISCIPLINE**

25 (Violation of California Health and Safety Code)

26 20. Respondent is subject to disciplinary action under Code section 4301, subsection (j),
27 in that Respondent engaged in unprofessional conduct by violating statutes regulating controlled
28 substances and dangerous drugs. Specifically, Respondent violated California Health and Safety

Code Section 11350 [Possession of a Controlled Substance – Cocaine], California Health and Safety Code section 11370.1(a) [Possession of Narcotics with Firearm], California Health and Safety Code section 11550(a) [Under the Influence of a Controlled Substance], and Health and Safety Code section 11359(b) [Possession for Sales of Marijuana]. Paragraphs 12 to 18 are re-alleged as if fully set forth herein.

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 Registration Number TCH 168710, issued to Robert Henry Cowgill;
2. Ordering Robert Henry Cowgill 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: July 10, 2020



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

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