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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. 6956

13 **CHRISTOPHER M. AGUSTIN**
14 **22919 Mariposa Ave., #205**
Torrance, CA 90502

DEFAULT DECISION AND ORDER

15 **Pharmacy Technician License No. TCH**
16 **57650**

[Gov. Code, §11520]

17 Respondent.
18

19
20 **FINDINGS OF FACT**

21 1. On or about October 7, 2020, Complainant Anne Sodergren, in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
23 Accusation No. 6956 against Christopher M. Agustin (Respondent) before the Board of
24 Pharmacy. (Accusation attached as Exhibit A.)

25 2. On or about July 20, 2004, the Board of Pharmacy (Board) issued Pharmacy
26 Technician License No. TCH 57650 to Respondent. The Pharmacy Technician License was in
27 full force and effect at all times relevant to the charges brought in Accusation No. 6956 and will
28 expire on November 30, 2021, unless renewed.

1 3. On or about October 8, 2020, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 6956, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: 22919 Mariposa Ave., #205 Torrance, CA 90502.

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. 6956.

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. 6956,
28 finds that the charges and allegations in Accusation No. 6956, are separately and severally, found
to be true and correct by clear and convincing evidence.

9. The Board finds that the actual costs for Investigation and Enforcement are \$2,625.00 as of
October 12, 2020.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Christopher M. Agustin has
3 subjected his Pharmacy Technician License No. TCH 57650 to discipline.

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

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

8 a. Code sections 490 and 4301, subdivision (l), in conjunction with California Code of
9 Regulations, title 16, section 1770 [substantially related convictions];

10 b. Code sections 4301, subdivision (f) [unprofessional conduct—dishonesty, fraud,
11 and/or deceit]; and

12 c. Code section 4301, subdivisions (j) and (o), in conjunction with Code sections 4021
13 and 4060 [unprofessional conduct—possession of a controlled substance without a prescription].

14 **ORDER**

15 IT IS SO ORDERED that Pharmacy Technician License No. TCH 57650, issued to
16 Respondent Christopher M. Agustin, 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 on February 11, 2021 at 5:00 p.m.

22 It is so ORDERED January 12, 2021

23 FOR THE BOARD OF PHARMACY
24 DEPARTMENT OF CONSUMER AFFAIRS

25 By



26 _____
27 Greg Lippe
28 Board President

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

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8
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. 6956

13 **CHRISTOPHER M. AGUSTIN**
14 **22919 Mariposa Ave., #205**
Torrance, CA 90502

ACCUSATION

15 **Pharmacy Technician License No. TCH**
16 **57650**

17 Respondent.

18
19
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 July 20, 2004, the Board of Pharmacy issued Pharmacy Technician
24 License Number TCH 57650 to Christopher M. Agustin (Respondent). The Pharmacy
25 Technician License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on November 30, 2021, unless renewed.
27
28

1
2 **JURISDICTION**

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

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

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

8 (b) The board shall discipline the holder of any license issued by the board,
9 whose default has been entered or whose case has been heard by the board and found
10 guilty, by any of the following methods:

11 (1) Suspending judgment.

12 (2) Placing him or her upon probation.

13 (3) Suspending his or her right to practice for a period not exceeding one year.

14 (4) Revoking his or her license.

15 (5) Taking any other action in relation to disciplining him or her as the board in
16 its discretion may deem proper.

17 ...

18 **STATUTORY PROVISIONS**

19 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
20 revoke a license on the ground that the licensee has been convicted of a crime substantially
21 related to the qualifications, functions, or duties of the business or profession for which the
22 license was issued.

23 6. Section 4021 of the Code states:

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

26 7. Section 4022 of the Code states:

27 “Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in
28 humans or animals, 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 (b) Any device that bears the statement: Caution: federal law restricts this device to sale by
4 or on the order of a _____, Rx only, or words of similar import, the blank to be filled in
5 with the designation of the practitioner licensed to use or order use of the device.

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

8 8. Section 4060 of the Code states, in pertinent part:

9
10 A person shall not possess any controlled substance, except that furnished to a person upon
11 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
12 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
13 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
14 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
15 pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6.

16 ...

17 9. Section 4301 of the Code states, in pertinent part:

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

21 ...

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

25 ...

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

28 ...

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

18 ...

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

23 ...

24 **REGULATORY PROVISIONS**

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

26 For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare.

4 **COST RECOVERY**

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

9 **DEFINITIONS**

10 12. "Zithromax" (generic name—azithromycin) is an antibiotic and is classified as a
11 dangerous drug.

12 13. "Plaquenil" (generic name—hydroxychloroquine) is an anti-malarial agent and is
13 classified as a dangerous drug.

14 14. "Methandienone" is an orally-effective anabolic steroid. Methandienone is classified
15 as a Schedule III controlled substance and as a dangerous drug. Methandienone is no longer
16 available in the United States, and it is not an FDA approved drug.

17 **FACTUAL ALLEGATIONS**

18 15. Respondent worked as a pharmacy technician at Harbor-UCLA hospital.
19 Surveillance video from Harbor-UCLA hospital showed Respondent removing numerous
20 pharmaceutical pills from the Harbor-UCLA pharmacy on multiple occasions. A Pharmacy
21 Director at Harbor-UCLA reviewed the footage and contacted the Los Angeles County Sheriff's
22 Department.

23 16. When interviewed by law enforcement, Respondent admitted that he had taken pills
24 from the Harbor-UCLA pharmacy and that he had intended to steal the pills before he entered the
25 pharmacy. A search of Respondent's vehicle revealed nearly \$7,000 worth of Azithromycin and
26 Hydroxychloroquine pills that had been stolen from Harbor-UCLA.

27 17. A later search of Respondent's residence revealed additional dangerous drugs for
28 which Respondent admittedly did not have prescriptions. Those drugs included Methandienone

1 pills, a Schedule III controlled substance. Respondent further admitted that he had been taking
2 pharmaceuticals from his place of employment for approximately one year.

3 18. On or about August 26, 2020, in the criminal proceeding entitled *The People of the*
4 *State of California v. Christopher Mencias Agustin* (Super. Ct. L.A. County, 2020, No.
5 BA486647), Respondent was convicted of two felonies: one count of violating Penal Code
6 section 496, subdivision (a), (larceny) and one count of violating Health and Safety Code section
7 11379, subdivision (a), (transport/sell/furnish/etc. controlled substances). The court placed
8 Respondent on probation for three (3) years under certain terms and conditions. As part of his
9 probation, Respondent was ordered not to work at a pharmacy.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(August 26, 2020 Criminal Convictions)**

12 19. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
13 (I), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent
14 was convicted of crimes substantially related to the qualifications, functions, and duties of a
15 pharmacy technician. Complainant incorporates the allegations in paragraphs 15 through 18 as
16 though set forth fully herein.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct—Dishonesty, Fraud, and/or Deceit)**

19 20. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
20 that Respondent repeatedly stole dangerous drugs and used his position as a pharmacy technician
21 to do so. Complainant incorporates the allegations in paragraphs 15 through 18 as though set
22 forth fully herein.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct—Violating Pharmacy and Dangerous Drug Laws)**

25 21. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)
26 and (o), in conjunction with Code sections 4021 and 4060, in that Respondent possessed a
27 controlled substance without a prescription. Complainant incorporates the allegations in
28 paragraphs 15 through 18 as though set forth fully 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 License Number TCH 57650, issued to Christopher M. Agustin;

2. Ordering Christopher M. Agustin 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: 10/7/2020

Signature on File

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

LA2020602257