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

In the Matter of the Accusation Against:

DEBORAH MARIE OLBERDING
8000 Macargo Court
Granite Bay, CA 95746

Pharmacy Technician License No. TCH
168047

Respondent.

Case No. 6959

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 31, 2020, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 6959 against Deborah Marie Olberding (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 27, 2018, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 168047 to Respondent. The Pharmacy Technician License was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 6959 and will
2 expire on May 31, 2022, unless renewed.

3 3. On or about August 6, 2020, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No. 6959, 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: 8000 Macargo Court, Granite Bay, CA 95746.

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. 6959.

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. 6959,
finds that the charges and allegations in Accusation No. 6959, are separately and severally, found
to be true and correct by clear and convincing evidence.

1 9. The Board finds that the actual costs for Investigation and Enforcement are \$2,907.50
2 as of September 14, 2020.

3 **DETERMINATION OF ISSUES**

4 1. Based on the foregoing findings of fact, Respondent Deborah Marie Olberding has
5 subjected her Pharmacy Technician License No. TCH 168047 to discipline.

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

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

10 a. Respondent is subject to disciplinary action under Code section 4301, subdivision (f);

11 b. Respondent is subject to disciplinary action under Code section 4060 and Health and
12 Safety Code section 11173, subdivision (a), by and through Code section 4301 subdivisions (j)
13 and (o);

14 c. Respondent is subject to discipline under Code section 4059, subdivision (a), and
15 Health and Safety Code 11171, by and through Code section 4301 subdivisions (j) and (o);

16 d. Respondent is subject to disciplinary action under Code section 4301, subdivision (o).

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ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 168047, issued to Respondent Deborah Marie Olberding, 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 December 9, 2020 at 5:00 p.m.

It is so ORDERED on November 9, 2020.

FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

Greg Lippe
Board President

34405911.DOCX
DOJ Matter ID:SA2020301015

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 XAVIER BECERRA
Attorney General of California
2 KAREN R. DENVER
Supervising Deputy Attorney General
3 KATELYN E. DOCHERTY
Deputy Attorney General
4 State Bar No. 322028
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5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-6277
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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. 6959

13 **DEBORAH MARIE OLBERDING**
14 **8000 Macargo Court**
Granite Bay, CA 95746

ACCUSATION

15 **Pharmacy Technician License No. TCH**
16 **168047**

17 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 (Board), Department of Consumer Affairs.

23 2. On or about July 27, 2018, the Board issued Pharmacy Technician License Number
24 TCH 168047 to Deborah Marie Olberding (Respondent). The Pharmacy Technician License was
25 in full force and effect at all times relevant to the charges brought herein and will expire on May
26 31, 2022, unless renewed.

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1 **JURISDICTION**

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

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

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

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

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

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

13 (4) Revoking his or her license.

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

16 5. Section 4300.1 of the Code states:

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

23 **STATUTORY PROVISIONS**

24 6. Section 4301 of the Code states, in pertinent part:

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

28 ...

(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.

...

(j) The violation of any of the statutes of this state, of any other state, or of the

1 United States regulating controlled substances and dangerous drugs.

2 ...

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

6 ...

7 7. Section 4022 of the Code states:

8 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
9 self-use in humans or animals, and includes the following:

10 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

11 (b) Any device that bears the statement: "Caution: federal law restricts this
12 device to sale by or on the order of a -----," "Rx only," or words of similar import,
the blank to be filled in with the designation of the practitioner licensed to use or
13 order use of the device.

14 (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.

15 8. Section 4059 of the Code states, in pertinent part:

16 (a) A person may not furnish any dangerous drug, except upon the prescription
17 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
pursuant to Section 3640.7. A person may not furnish any dangerous device, except
18 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7.

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

20 No person shall possess any controlled substance, except that furnished to a
21 person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
22 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
23 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
24 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

25 10. Section 11007 of the Health and Safety Code states:

26 'Controlled substance,' unless otherwise specified, means a drug, substance, or
27 immediate precursor which is listed in any schedule in Section 11054, 11055, 11056,
11057, or 11058.

28 11. Section 11171 of the Health and Safety Code states:

1 No person shall prescribe, administer, or furnish a controlled substance except
2 under the conditions and in the manner provided by this division.

3 12. Section 11173, subdivision (a) of the Health and Safety Code states:

4 No person shall obtain or attempt to obtain controlled substances, or procure or
5 attempt to procure the administration of or prescription for controlled substances,
6 (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a
7 material fact.

8 COST RECOVERY

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

13 DRUG INFORMATION

14 14. **Hydrocodone/Acetaminophen** also known as Norco, is a Schedule II controlled
15 substance designated by Health and Safety Code section 11055, subdivision (l)(i), and a
16 dangerous drug as defined in Code section 4022.

17 BACKGROUND INFORMATION

18 15. At the time of the events set forth herein, Respondent was employed as a pharmacy
19 technician at CVS Pharmacy #3862, located at 1030 Pleasant Grove Blvd, Roseville, California
20 (CVS).

21 16. On or about September 27, 2019, the Board received a DEA 106 form - *Report of*
22 *Theft of Loss of Controlled Substances* from CVS, indicating suspected employee theft of the
23 controlled substance hydrocodone/acetaminophen 10-325 mg tablets.

24 17. On or about September 5, 2019, during an interview with CVS Asset Protection
25 Manager C.M., Respondent admitted to stealing a vial of 60 hydrocodone/acetaminophen 10-325
26 mg tablets from CVS by taking the prescription off of the shelf, dumping it into a Kleenex and
27 placing it in her scrub pocket. Respondent then disposed of the prescription vial in the green bin.
28 Respondent stated that she deliberately stole the hydrocodone/acetaminophen 10-325 mg tablets
for her daughter, since her daughter's other medications were not helping with her anxiety and

1 other personal issues. Respondent admitted that she had given some of the
2 hydrocodone/acetaminophen 10-325 mg tablets to her daughter. After the interview,
3 Respondent's employment with CVS was terminated and the Roseville Police Department was
4 notified.

5 18. On or about December 30, 2019, the Board received an internal audit summary from
6 CVS that indicated an overall loss for the pharmacy of 60 hydrocodone/acetaminophen 10-325
7 mg tablets for the period from June 1, 2019, to December 23, 2019.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Acts Involving Dishonesty, Fraud, Deceit, or Corruption)**

10 19. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
11 for unprofessional conduct, in that while employed and on duty as a pharmacy technician at CVS,
12 Respondent committed acts involving dishonesty, fraud, deceit, or corruption, as more
13 particularly set forth above in paragraphs 15 through 18.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unlawful Possession of Controlled Substances)**

16 20. Respondent is subject to disciplinary action under Code section 4060 and Health
17 and Safety Code section 11173, subdivision (a), by and through Code section 4301 subdivisions
18 (j) and (o) for unprofessional conduct, in that while employed and on duty as a pharmacy
19 technician at CVS, Respondent possessed the controlled substance (hydrocodone/acetaminophen)
20 without authorization or a valid prescription, as more particularly set forth above in paragraphs 15
21 through 18.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unlawful Furnishing of Controlled Substances)**

3 21. Respondent is subject to discipline under Code section 4059, subdivision (a), and
4 Health and Safety Code 11171, by and through Code section 4301 subdivisions (j) and (o) for
5 unprofessional conduct, in that while employed as a pharmacy technician at CVS, Respondent
6 furnished a controlled substance and dangerous drug (hydrocodone/acetaminophen) to another
7 person without a valid prescription, as more particularly set forth above in paragraphs 15 through
8 18.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Violating Laws and Regulations Governing Pharmacy)**

11 22. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
12 for unprofessional conduct, in that while employed and on duty as a pharmacy technician at CVS,
13 Respondent violated or attempted to violate, directly or indirectly, laws governing pharmacy, as
14 more particularly set forth above in paragraphs 15 through 21.

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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 168047, issued to Deborah Marie Olberding;
2. Ordering Deborah Marie Olberding 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 31, 2020 *Anne Sodergren*
ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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