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

In the Matter of the Accusation Against:

FERNANDO JOSE CABRERA
8875 Dorrington Ave
Arleta, CA 91331

Pharmacy Technician Registration No.
TCH159534

Respondent.

Case No. 6965

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 6, 2020, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 6965 against Fernando Jose Cabrera (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about December 27, 2017, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH159534 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 6965 and will expire on June 30, 2021, unless renewed.

1 3. On or about July 14, 2020, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 6965, 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: 8875 Dorrington Ave. Arleta, CA 91331.

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. 6965.

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. 6965,
28 finds that the charges and allegations in Accusation No. 6965, 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 \$6,874.75
as of August 21, 2020.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Fernando Jose Cabrera has
3 subjected his Pharmacy Technician Registration No. TCH159534 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 Registration based upon the following violation alleged in the Accusation which is supported by
7 the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

8 a. Impairment on duty (Business and Professions Code section 4301, subdivisions (j)
9 and (o), in conjunction with Code section 4327).

10 **ORDER**


11 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH159534, issued to
12 Respondent Fernando Jose Cabrera, is revoked.

13 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
14 written motion requesting that the Decision be vacated and stating the grounds relied on within
15 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
16 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

17 This Decision shall become effective on November 4, 2020 at 5:00 p.m.

18 It is so ORDERED October 5, 2020

19 FOR THE BOARD OF PHARMACY
20 DEPARTMENT OF CONSUMER AFFAIRS

21 By 

22 _____
23 Greg Lippe
24 Board President

25 DOJ Matter ID:LA2020600749

26 Attachment:
27 Exhibit A:
28 Accusation

Exhibit A

Accusation

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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

Case No. 6965

13 **FERNANDO JOSE CABRERA**
14 **8875 Dorrington Ave.**
Arleta, CA 91331

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
16 **159534**

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 December 27, 2017, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 159534 to Fernando Jose Cabrera (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 June 30, 2021, 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 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 ...

17 **STATUTORY PROVISIONS**

18 5. Section 4022 of the Code states

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

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

23 (b) Any device that bears the statement: Caution: federal law restricts this
24 device to sale by or on the order of a _____, Rx only, or words of similar
25 import, the blank to be filled in with the designation of the practitioner licensed to use
26 or order use of the device.

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

1 **FACTUAL ALLEGATIONS**

2 11. On or about January 3, 2020, Respondent reported for work at CVS Store #10807
3 (CVS). Respondent stated that he was not feeling well, and he visited the store’s bathroom
4 frequently. Respondent proceeded to fill at least thirty (30) prescriptions during his shift.

5 12. The duty pharmacist became concerned that Respondent could not work and
6 contacted the pharmacist-in-charge. The store manager then informed the duty pharmacist that
7 Respondent was in the back and did not look good. The store manager brought Respondent to the
8 consultation area near the pharmacy. The duty pharmacist noted that Respondent appeared as
9 though “he was not there” and would reply to questions in grunts or nods. The store manager
10 called 911.

11 13. The San Fernando Police responded first to the scene. The officers observed that
12 Respondent was semi-conscious, had shallow respiration, pale skin, and constricted pupils. The
13 officers administered one dose of Narcan 4 mg to Respondent’s left nostril. After administration
14 of the Narcan, Respondent regained consciousness, his breathing improved, and his skin color
15 returned to normal. Paramedics then arrived on scene and transported Respondent to the hospital.

16 14. Respondent received treatment in the hospital’s emergency room. While there, a
17 urine screen performed on Respondent was positive for opiates.

18 15. When interviewed, Respondent admitted taking one Norco tablet on or about
19 December 31, 2019. Respondent claimed he had the tablet left from a prescription he had
20 received in 2018. Respondent stated that, when the paramedics came, he had told them he had
21 taken the Norco. Respondent also stated that he had taken ibuprofen and cough medicine prior to
22 his shift on January 3, 2020.

23 **CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct—Impairment on Duty)

25 16. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)
26 and (o), in conjunction with Code section 4327, in that he sold and/or dispensed drugs while
27 under the influence of dangerous drugs. Complainant realleges paragraphs 11 through 15.

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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 Registration Number TCH 159534, issued to Fernando Jose Cabrera;

2. Ordering Fernando Jose Cabrera 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 6, 2020



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

LA2020600749