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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. 7012

13 **ASHILEY SHIANN SHIRD**
14 400 Paseo Camarillo #207
15 Camarillo, CA 93010

DEFAULT DECISION AND ORDER

16 Pharmacy Technician Registration No. TCH
17 169947

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about November 23, 2020, Complainant Anne Sodergren, in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
22 filed Accusation No. 7012 against Ashiley Shiann Shird (Respondent) before the Board of
23 Pharmacy. (Accusation attached as Exhibit A.)

24 2. On or about November 6, 2018, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 169947 to Respondent. The Pharmacy Technician Registration
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 7012
27 and will expire on January 31, 2022, unless renewed.

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1 3. On or about December 15, 2020, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7012, 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: 400 Paseo Camarillo #207, Camarillo, CA 93010.

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 her of the Accusation, and therefore
17 waived her right to a hearing on the merits of Accusation No. 7012.

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. 7012,
28 finds that the charges and allegations in Accusation No. 7012, 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 \$4,103.25
as of February 1, 2021.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Ashiley Shiann Shird has subjected her Pharmacy Technician Registration No. TCH 169947 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. Business and Professions Code section 4301, subdivision (j) and (o), in that Respondent was found to be in possession of controlled substances, in violation of section 4060 and Health and Safety Code sections 11350, subdivision (a), and 11377, subdivision (a), while employed as a registered pharmacy technician at CVS Pharmacy.

b. Business and Professions Code section 4301, subdivisions (j) and (o), for violating section 4059, in that on or about May 12, 2020 while employed as a registered pharmacy technician, Respondent unlawfully took hydrocodone/acetaminophen and vyvanse pills from her pharmacy employer.

c. Business and Professions Code section 4301, subdivision (f), in that on or about May 12, 2020, while employed as a registered pharmacy technician for CVS Pharmacy, Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit herself, or substantially injure another.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 169947, issued to Respondent Ashiley Shiann Shird, 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 at 5:00 p.m. on April 14, 2021.

It is so ORDERED on March 15, 2021.

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

By



Greg Lippe
Board President

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DOJ Matter ID:LA2020602250

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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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. 7012

14 **ASHILEY SHIANN SHIRD**

ACCUSATION

15 400 Paseo Camarillo #207
16 Camarillo, CA 93010

17 Pharmacy Technician Registration
18 No. TCH 169947

Respondent.

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 (Board), Department of Consumer Affairs.

22 2. On or about November 6, 2018, the Board issued Pharmacy Technician Registration
23 Number TCH 169947 to Ashiley Shiann Shird (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on January 31, 2022, unless renewed.

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JURISDICTION

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

4. Section 4300 states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

(1) Medical or psychiatric evaluation.

(2) Continuing medical or psychiatric treatment.

(3) Restriction of type or circumstances of practice.

(4) Continuing participation in a board-approved rehabilitation program.

(5) Abstention from the use of alcohol or drugs.

(6) Random fluid testing for alcohol or drugs.

(7) Compliance with laws and regulations governing the practice of pharmacy.

(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the

Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

5. Section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a 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.

STATUTORY PROVISIONS

6. Section 4022 states:

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

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

“(b) Any device that bears the statement: “Caution: federal law restricts this 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 order use of the device.

“(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.”

7. Section 4060 states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant 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 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 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

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1 8. Section 4301 states, in pertinent part:

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

5

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

9

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

12 . . .

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

18 9. Health and Safety Code section 11350, subdivision (a) states:

19 “Except as otherwise provided in this division, every person who possesses (1)
20 any controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of
21 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
22 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
23 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
24 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
25 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
26 practice in this state, shall be punished by imprisonment in a county jail for not more
27 than one year, except that such person shall instead be punished pursuant to
28 subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior
 convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph
 (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring
 registration pursuant to subdivision (c) of Section 290 of the Penal Code.”

 10. Health and Safety Code section 11377, subdivision (a) states:

 Except as authorized by law and as otherwise provided in subdivision (b) or
 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
 Division 2 of the Business and Professions Code, every person who possesses any
 controlled substance which is (1) classified in Schedule III, IV, or V, and which is not
 a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs
 (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of
 subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision
 (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055,
 unless upon the prescription of a physician, dentist, podiatrist, or veterinarian,
 licensed to practice in this state, shall be punished by imprisonment in a county jail
 for a period of not more than one year, except that such person may instead be
 punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person

has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

REGULATORY PROVISIONS

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

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

COST RECOVERY

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

13. CONTROLLED SUBSTANCES / DANGEROUS DRUGS

a. "Hydrocodone," is a Schedule II controlled narcotic substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I) and is categorized as a dangerous drug pursuant to section 4022. Preparations containing hydrocodone in combination with other non-narcotic medicinal ingredients are in Schedule III.

b. "Vyvanse," is a Schedule II controlled narcotic substance pursuant to Health and Safety Code section 11055, subdivision (d) and is a central nervous system stimulant. It affects chemicals in the brain and nerves that contribute to hyperactivity and impulse control. It is used to treat attention deficit hyperactivity disorder and is categorized as a dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(Obtained or Possessed Controlled Substances)

14. Respondent is subject to disciplinary action under section 4301, subdivision (j) and (o), in that Respondent was found to be in possession of controlled substances, in violation of section 4060 and Health and Safety Code sections 11350, subdivision (a), and 11377, subdivision

1 (a), while employed as a registered pharmacy technician at CVS Pharmacy. During an
2 investigation, it was revealed that on or about May 12, 2020, Respondent rang up her own
3 prescription order under another employee's number, used another employee's credentials to
4 perform a return to stock, left early from her shift without permission and failed to undergo a bag
5 check. Shortly after Respondent left the premises, a pharmacist in the process of filling a
6 prescription realized there was a drug discrepancy and conducted a cycle count that revealed a
7 shortage of 12 tablets of hydrocodone/acetaminophen and 30 tablets of vyvanse. She also found
8 that her credentials were used without her knowledge to perform a return to stock. During an
9 interview with Respondent, she did not deny the theft and when asked if she would like to return
10 the medication she responded, "they are gone." Respondent was subsequently terminated from
11 her employment.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Furnishing Dangerous Drugs Without a Prescription)**

14 15. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
15 (o), for violating section 4059, in that on or about May 12, 2020 while employed as a registered
16 pharmacy technician, Respondent unlawfully took hydrocodone/acetaminophen and vyvanse pills
17 from her pharmacy employer. Complainant refers to, and by this reference incorporates, the
18 allegations set forth above in paragraph 14, as though set forth fully.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Acts Involving Dishonesty, Fraud, or Deceit)**

21 16. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
22 that on or about May 12, 2020, while employed as a registered pharmacy technician for CVS
23 Pharmacy, Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
24 substantially benefit herself, or substantially injure another. Complainant refers to, and by this
25 reference incorporates, the allegations set forth above in paragraph 14, as though set forth fully.

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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 169947, issued to Ashiley Shiann Shird;

2. Ordering Ashiley Shiann Shird 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: 11/23/2020

Signature on File

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

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