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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. 7098

13 **ELIANA MIRANDA**
14 **55960 Otis Avenue**
15 **Huntington Park, CA 90255**

DEFAULT DECISION AND ORDER

16 **Pharmacy Technician Registration No. TCH**
17 **85035**

[Gov. Code, §11520]

Respondent.

18
19 **FINDINGS OF FACT**

20 1. On or about June 2, 2021, Complainant Anne Sodergren, in her official capacity as
21 the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs,
22 filed Accusation No. 7098 against Eliana Miranda ("Respondent") before the Board of Pharmacy.
23 (Accusation attached as Exhibit A.)

24 2. On or about August 27, 2008, the Board issued Pharmacy Technician Registration
25 No. TCH 85035 to Respondent. The Pharmacy Technician Registration was in full force and
26 effect at all times relevant to the charges brought in Accusation No. 7098 and will expire on May
27 31, 2022, unless renewed.

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1 3. On or about June 30, 2021, Respondent was served by Certified Mail copies of the
2 Statement to Respondent, Accusation No. 7098, Statement to Respondent, Request for Discovery,
3 Notice of Defense (2 copies) and Discovery Statutes (Government Code sections 11507.5,
4 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
5 Professions Code section 4100, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is: 55960 Otis Avenue, Huntington Park, CA 90255.

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. 7098.

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. 7098,
28 finds that the charges and allegations in Accusation No. 7098, 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 \$9,227.00
as of August 4, 2021.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Eliana Miranda has subjected her Pharmacy Technician Registration No. TCH 85035 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, subdivisions (f) and (j) (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption).

b. Business and Professions Code sections 4301, subdivisions (j) and (o) (Unprofessional Conduct/ Violation of Licensing Chapter).

c. Business and Professions Code sections 4301, subdivision (q), in conjunction with section 4060 (Unprofessional Conduct-Subverting an Investigation of the Board).

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 85035, issued to Respondent Eliana Miranda, 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 October 7, 2021.

It is so ORDERED on September 7, 2021.

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

DEFAULT DECISION AND ORDER.DOCX
DOJ Matter ID:LA2021601476

Attachment:
Exhibit A: Accusation

By



Seung W. Oh, Pharm D.
Board President

Exhibit A

Accusation

(ELIANA MIRANDA)

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Supervising Deputy Attorney General
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Deputy Attorney General
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7 *Attorneys for Complainant*

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7098

13 **ELIANA MIRANDA**
14 **55960 Otis Avenue**
Huntington Park, CA 90255

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
16 **85035**

17 Respondent.

18
19 **PARTIES**

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

22 2. On or about August 27, 2008, the Board issued Pharmacy Technician Registration
23 Number TCH 85035 to Respondent. The Pharmacy Technician Registration was in full force and
24 effect at all times relevant to the charges brought herein and will expire on May 31, 2022, unless
25 renewed.

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JURISDICTION

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

4. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

6. Section 4300(a) of the Code states that every license issued by the Board may be suspended or revoked.

7. Section 4300.1 of the Code 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

8. Section 4301 of the Code states:

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

....

"(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 United States regulating controlled substances and dangerous drugs.

....
" (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter 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 regulatory agency."
....

"(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board."

COST RECOVERY

9. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate 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.

DRUG CLASSIFICATION

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER BUS. & PROF. SECTION 4022	CONTROLLED SUBSTANCE PER SECTION HEALTH & SAFETY	INDICATION FOR USE
Freestyle Lite, Freestyle Insulinx, One Touch Verio, One Touch Ultra, True Metrix, Accu-Chek Smart View, Accu-Chek Aviva, Accu-Chek Guide, Accu-Chek Compact Plus	Blood glucose test strips	No	No	Diabetic blood glucose monitoring

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

10. Respondent is subject to disciplinary action under section 4301, subdivisions (f) and (j), on the grounds of unprofessional conduct, in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption with the intent to substantially benefit herself, or substantially injure another, as follows:

a. Between August 2018 and January 2019, Respondent diverted diabetic test strips from the Medicine Cabinet #5 in Bell. Video surveillance showed that Respondent diverted the

1 diabetic test strips by removing boxes of test strips from wholesale deliveries, hiding them behind
2 a door then removing them from the pharmacy without paying for them. Cardinal wholesale
3 invoices provided by The Medicine Cabinet Pharmacist-in-Charge A.S. showed Respondent
4 diverted 57 boxes of Freestyle Lite 100 count test strips, 25 boxes of One Touch Verio 100 count
5 test strips, 40 boxes of Accu-Chek Smartview 100 count test strips, 2 boxes of Accu-Chek
6 Compact Plus 102 count test strips and 40 boxes of Accu-Chek Plus 100 count test strips. The
7 total loss to The Medicine Shoppe was \$23,390.96.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Unprofessional Conduct/ Violation of Licensing Chapter)

10 11. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
11 (o), in that Respondent committed acts of unprofessional conduct and/ or violated provisions of
12 the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations
13 set forth above in paragraph 10, subparagraph (a), as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct-Subverting an Investigation of the Board)

16 12. Respondent is subject to disciplinary action under sections 4301, subdivision (q), on
17 the grounds of unprofessional conduct, in that Respondent engaged in conduct that subverted an
18 investigation of the Board, as follows:

19 a. Respondent subverted an investigation when she failed to respond to Board
20 Representatives and provide a statement explaining the diversion of diabetic test strips from the
21 Medicine Cabinet Pharmacy #5 in Bell.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Pharmacy issue a decision:

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 85035,
26 issued to Eliana Miranda;

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1 2. Ordering Eliana Miranda to pay the Board of Pharmacy the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3; and

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: 6/2/2021
8

Signature on File

9 _____
10 ANNE SODERGREN
11 Executive Officer
12 Board of Pharmacy
13 Department of Consumer Affairs
14 State of California
15 Complainant

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