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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. 7158

13 **BENJAMIN NATHAN WILLIAMS**

366 Reservation Road, #A-6

14 Marina, CA 93933

DEFAULT DECISION AND ORDER

15 **Original Pharmacy Technician Registration**
16 **No. TCH 153369**

[Gov. Code, §11520]

17 Respondent.

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20 **FINDINGS OF FACT**

21 1. On or about September 17, 2021, Complainant Anne Sodergren, in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
23 filed Accusation No. 7158 against Benjamin Nathan Williams (Respondent) before the Board of
24 Pharmacy. (Accusation attached as Exhibit A.)

25 2. On or about April 15, 2016, the Board of Pharmacy issued Original Pharmacy
26 Technician Registration Number TCH 153369 to Benjamin Nathan Williams (Respondent). The
27 Original Pharmacy Technician Registration was in full force and effect at all times relevant to the
28 charges brought in this Accusation and will expire on November 30, 2021, unless renewed.

1 3. On or about September 23, 2021, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7158, 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: 366 Reservation Road, No. A-6, Marina, CA 93933-3266.

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. 7158.

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. 7158,
28 finds that the charges and allegations in Accusation No. 7158, are separately and severally, found
to be true and correct by clear and convincing evidence.

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9. The Board finds that the actual costs for Investigation and Enforcement are \$7,829.25 as of November 5, 2021.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Benjamin Nathan Williams has subjected his Original Pharmacy Technician Registration No. TCH 153369 to discipline.

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

3. The Board of Pharmacy is authorized to revoke Respondent's Original 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 sections 4301, subdivisions (j) and (o), 4059, and 4060 (Unlawful Dispensing of Dangerous Drug and Possession of Controlled Substance);

b. Business and Professions Code section 4301, subdivision (f) (Dishonesty);

c. Business and Professions Code sections 4301, subdivisions (j) and (o), and Health and Safety Code section 11173, subdivision (a)(1) (Obtaining Controlled Substance by Deceit);

d. Business and Professions Code section 4301, subdivision (q) (Attempted Subversion of Board Investigation).

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ORDER

IT IS SO ORDERED that Original Pharmacy Technician Registration No. TCH 153369, issued to Respondent Benjamin Nathan Williams, 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 January 19, 2022 at 5:00 p.m.

It is so ORDERED on December 20, 2021.

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

By



Seung W. Oh, Pharm.D.
Board President

91440303.DOCX
DOJ Matter ID:OK2021900200

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(BENJAMIN NATHAN WILLIAMS)

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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. 7158

14 **BENJAMIN NATHAN WILLIAMS**
366 Reservation Road, #A-6
15 Marina, CA 93933

ACCUSATION

16 **Original Pharmacy Technician Registration**
17 **No. TCH 153369**

Respondent.

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 April 15, 2016, the Board of Pharmacy issued Original Pharmacy
24 Technician Registration Number TCH 153369 to Benjamin Nathan Williams (Respondent). The
25 Original Pharmacy Technician Registration was in full force and effect at all times relevant to the
26 charges brought in this Accusation and will expire on November 30, 2021, unless renewed.

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 4300 of the Code 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

1 action shall be final, except that the propriety of the action is subject to review by the
2 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

3 5. Section 4300.1 of the Code states:

4 The expiration, cancellation, forfeiture, or suspension of a board-issued license
5 by operation of law or by order or decision of the board or a court of law, the
6 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.

7 STATUTORY PROVISIONS

8 6. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
9 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
10 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
11 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
12 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

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

14 No person shall possess any controlled substance, except that furnished to a
15 person upon the prescription of a physician, dentist, podiatrist, optometrist,
16 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
17 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
18 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
19 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
20 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.

21 8. Section 4301 of the Code states, in pertinent part:

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

24 . . .

25 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
26 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.

27 . . .

28 (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.

9. Health and Safety Code section 11173, subdivision (a) (1), states that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, by fraud, deceit, misrepresentation, or subterfuge.

COST RECOVERY

10. Section 125.3 of the Code 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.

DRUG DEFINITIONS

11. Luminal is a brand name of phenobarbital, a dangerous drug under Business and Professions Code section 4022, and a Schedule IV controlled substance under Health and Safety Code section 11057, subdivision (d) (26). It is used for sedation and to treat seizures.

12. Halcion is a brand name of triazolam, a dangerous drug under Business and Professions Code section 4022, and a Schedule IV controlled substance under Health and Safety Code section 11057, subdivision (d) (30). It is used to treat anxiety.

13. Soma is a brand name of carisoprodol, a dangerous drug under Business and Professions Code section 4022 and a Schedule IV controlled substance under Health and Safety Code section 11057, subdivision (d). It is used to treat muscle spasms.

14. Norco is a brand name for a drug combination of hydrocodone/acetaminophen. It is a dangerous drug under Business and Professions Code section 4022 and a Schedule II controlled substance under Health and Safety Code section 11055, subdivision (b) (1) (I). It is used for pain relief.

15. MS Contin is a brand name for morphine sulfate, a dangerous drug under Business and Professions Code section 4022 and a Schedule II controlled substance under Health and Safety Code section 11055, subdivision (b) (1) (L).

FACTUAL ALLEGATIONS

16. On or about March 19, 2021, Respondent was terminated from his position as a pharmacy technician at Walgreens #4997 located in Marina, California, for theft of dangerous drugs. Respondent later admitted to police that he had stolen for his own use approximately 13 hydrodone/acetaminophen 10-325 g tablets, nine morphine ER 15 mg tablets, two triazolam .25 mg tablets, six phenobarbital 60 mg tablets, and three carisprodol 350 mg tablets from the pharmacy. The thefts had occurred from on or about March 2, 2021 to March 19, 2021, when Respondent did not have a valid prescription for the drugs. Moreover, Respondent subsequently failed to respond to a Board investigator's request for a statement explaining his termination from the pharmacy.

FIRST CAUSE FOR DISCIPLINE

(Unlawful Dispensing of Dangerous Drug and Possession of Controlled Substance)

17. Respondent is subject to disciplinary action for unprofessional conduct under Code sections 4301, subdivisions (j) and (o), 4059, and 4060 in that he unlawfully dispensed a dangerous drug and unlawfully possessed a controlled substance. The circumstances are set forth in paragraph 16, above.

SECOND CAUSE FOR DISCIPLINE

(Dishonesty)

18. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subdivision (f), in that he committed an act of dishonesty. The circumstances are set forth in paragraph 16, above.

THIRD CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Deceit)

19. Respondent is subject to disciplinary action for unprofessional conduct under Code sections 4301, subdivisions (j) and (o), and Health and Safety Code section 11173, subdivision (a)

(1), in that he obtained a controlled substance by deceit. The circumstances are set forth in paragraph 16, above.

FOURTH CAUSE FOR DISCIPLINE

(Attempted Subversion of Board Investigation)

20. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subdivision (q), in that he attempted to subvert a Board investigation. The circumstances are set forth in paragraph 16, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Technician Registration Number TCH 153369, issued to Benjamin Nathan Williams;
2. Ordering Benjamin Nathan Williams 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: 9/17/2021

Signature on File

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

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