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

In the Matter of the Accusation Against:

HALIMA USAMA ELSHERBINY
2022 Baltra Place
Costa Mesa, CA 92626

Pharmacy Technician License No. 170088

Respondent.

Case No. 7668

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 19, 2024, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 7668 against Halima Usama Elsherbiny (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about November 14, 2018, the Board of Pharmacy (Board) issued Pharmacy Technician License No. 170088 to Respondent. The Pharmacy Technician License expired on September 4, 2022, and has not been renewed.

1 3. On or about February 23, 2024, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 7668, 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: 2022 Baltra Place, Costa Mesa, CA 92626.

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. 7668.

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 finds that the charges and allegations in Accusation No. 7668, are separately and severally, found
27 to be true and correct by clear and convincing evidence.
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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Halima Usama Elsherbiny has
3 subjected her Pharmacy Technician License No. 170088 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 License based upon the following violations alleged in the Accusation, which are supported by
7 the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

8 a. Respondent violated Business and Professions Code section 4301, subdivision
9 (f), in that she engaged in acts involving moral turpitude, dishonesty, and deceit, when she
10 accompanied a female accomplice to assault a victim and steal her purse.

11 b. Respondent violated Business and Professions Code section 4301, subdivision
12 (h) in that Respondent drove recklessly while under the influence of drugs to an extent or in a
13 manner dangerous or injurious to herself or others.

14 c. Respondent violated Business and Professions Code section 4301, subdivision
15 (j), in that Respondent was convicted of Penal Code Section 487(a), and Vehicle Code Section
16 23152(f) for driving while under the influence of controlled substances and dangerous drugs.

17 d. Respondent violated Business and Professions Code section Code section 4301,
18 subdivision (l), in that Respondent was convicted of Penal Code Section 487(a), and Vehicle
19 Code Section 23152(f), crimes that are substantially related to the qualifications, functions, and
20 duties of a licensee, as more fully set forth in paragraphs 12 through 15 and incorporated herein
21 by reference.

22 e. Respondent violated Business and Professions Code section 4301, in that she
23 displayed unprofessional conduct, as more fully set forth in paragraphs a. through d., above.

24 **ORDER**

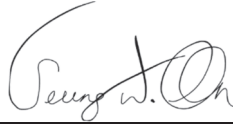
25 IT IS SO ORDERED that Pharmacy Technician License No. 170088, issued to Respondent
26 Halima Usama Elsherbiny, is revoked.

27 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
28 written motion requesting that the Decision be vacated and stating the grounds relied on within

1 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
2 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

3 This Decision shall become effective at 5:00 p. m. on May 23, 2024.

4 It is so ORDERED on April 23, 2024.

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6 _____
7 Seung W. Oh, Pharm. D.
8 Board President
9 FOR THE BOARD OF PHARMACY
10 DEPARTMENT OF CONSUMER AFFAIRS

11 84454944.DOCX
12 SD2023803103

13 Attachment:
14 Exhibit A: Accusation

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Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 MOLLY E. SELWAY
Deputy Attorney General
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600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9082
7 Facsimile: (619) 645-2031
Attorneys for Complainant

8
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. 7668

14 **HALIMA USAMA ELSHERBINY**
15 **2022 Baltra Place**
Costa Mesa, CA 92626

ACCUSATION

16 **Pharmacy Technician License No. 170088**

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 (Board), Department of Consumer Affairs.

22 2. On or about November 14, 2018, the Board issued Pharmacy Technician License
23 Number 170088 to Halima Usama Elsherbiny (Respondent). The Pharmacy Technician License
24 expired on May 31, 2022, and was cancelled on September 4, 2022.

25 **JURISDICTION**

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

1 4. Section 118 of the Code states:

2 (a) The withdrawal of an application for a license after it has been filed with a
3 board in the department shall not, unless the board has consented in writing to such
4 withdrawal, deprive the board of its authority to institute or continue a proceeding
 against the applicant for the denial of the license upon any ground provided by law or
 to enter an order denying the license upon any such ground.

5 (b) The suspension, expiration, or forfeiture by operation of law of a license
6 issued by a board in the department, or its suspension, forfeiture, or cancellation by
7 order of the board or by order of a court of law, or its surrender without the written
8 consent of the board, shall not, during any period in which it may be renewed,
9 restored, reissued, or reinstated, deprive the board of its authority to institute or
 continue a disciplinary proceeding against the licensee upon any ground provided by
 law or to enter an order suspending or revoking the license or otherwise taking
 disciplinary action against the licensee on any such ground.

10 (c) As used in this section, “board” includes an individual who is authorized by
11 any provision of this code to issue, suspend, or revoke a license, and “license”
 includes “certificate,” “registration,” and “permit.”

12 5. Section 4300 of the Code states:

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

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

16 (1) Suspending judgment.

17 (2) Placing him or her upon probation.

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

19 (4) Revoking his or her license.

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

22 (c) The board may refuse a license to any applicant guilty of unprofessional
23 conduct. The board may, in its sole discretion, issue a probationary license to any
24 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:

25 (1) Medical or psychiatric evaluation.

26 (2) Continuing medical or psychiatric treatment.

27 (3) Restriction of type or circumstances of practice.

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

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

2 (6) Random fluid testing for alcohol or drugs.

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

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

8 (e) The proceedings under this article shall be conducted in accordance with
9 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
10 Government Code, and the board shall have all the powers granted therein. The
11 action shall be final, except that the propriety of the action is subject to review by the
12 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

13 6. Section 4300.1 of the Code states:

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

20 **STATUTORY PROVISIONS**

21 7. Section 4301 of the Code states:

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
24 conduct shall include, but is not limited to, any of the following:

25

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

(g) Knowingly making or signing any certificate or other document that falsely
represents the existence or nonexistence of a state of facts.

(h) The administering to oneself, of any controlled substance, or the use of any
dangerous drug or of alcoholic beverages to the extent or in a manner as to be
dangerous or injurious to oneself, to a person holding a license under this chapter, or
to any other person or to the public, or to the extent that the use impairs the ability of
the person to conduct with safety to the public the practice authorized by the license.

. . .

(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.

. . .

1 (f) The conviction of a crime substantially related to the qualifications,
2 functions, and duties of a licensee under this chapter. The record of conviction of a
3 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
4 States Code regulating controlled substances or of a violation of the statutes of this
5 state regulating controlled substances or dangerous drugs shall be conclusive
6 evidence of unprofessional conduct. In all other cases, the record of conviction shall
7 be conclusive evidence only of the fact that the conviction occurred. The board may
8 inquire into the circumstances surrounding the commission of the crime, in order to
9 fix the degree of discipline or, in the case of a conviction not involving controlled
10 substances or dangerous drugs, to determine if the conviction is of an offense
11 substantially related to the qualifications, functions, and duties of a licensee under this
12 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
13 contendere is deemed to be a conviction within the meaning of this provision. The
14 board may take action when the time for appeal has elapsed, or the judgment of
15 conviction has been affirmed on appeal or when an order granting probation is made
16 suspending the imposition of sentence, irrespective of a subsequent order under
17 Section 1203.4 of the Penal Code allowing the person to withdraw their plea of guilty
18 and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
19 the accusation, information, or indictment.

20

21 REGULATORY PROVISIONS

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

23 (a) For the purpose of denial, suspension, or revocation of a personal or facility
24 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
25 Business and Professions Code, a crime, professional misconduct, or act shall be
26 considered substantially related to the qualifications, functions or duties of the
27 practice, profession, or occupation that may be performed under the license type
28 sought or held if to a substantial degree it evidences present or potential unfitness of
an applicant or licensee to perform the functions authorized by the license in a
manner consistent with the public health, safety, or welfare.

(b) In making the substantial relationship determination required under
subdivision (a) for a crime, the board will consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of the practice, profession, or occupation that may be
performed under the license type sought or held.

(c) For purposes of subdivision (a), substantially related crimes, professional
misconduct, or acts shall include, but are not limited to, those which:

(1) Violate or attempt to violate, directly or indirectly, or to aid, abet or
conspire to violate, any provision of law of this state, or any other jurisdiction,
governing the practice of pharmacy.

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28 (4) Involve dishonesty, fraud, deceit, or corruption related to money, items,

documents, or personal information.

(5) Involve a conviction for driving under the influence of drugs or alcohol.

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 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.

DRUGS

10. Alprazolam: is a benzodiazepine, also known as Xanax, is a dangerous drug pursuant to Business and Professions Code section 4022.

11. Oxycodone: is an opioid pain medication, it is a Schedule II controlled substance as designated by Health and Safety Code Section 11055, subdivision (b)(1)(m), and is a dangerous drug pursuant to Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

People of the State of California v. Halima Usama Elsherbiny

Contra Costa County Superior Court: Case No. 05-201340-7

12. On January 7, 2019, at approximately 11:11 p.m., police officers responded to a complaint regarding a robbery from the victim's residence. The victim's mother informed officers that an unknown female got in an altercation with the victim, which resulted in the victim falling to the ground and briefly losing consciousness. Subsequent investigation revealed that Respondent and a female accomplice fled the scene, taking the victim's Louis Vuitton purse, which was valued at approximately \$3,500.00. On January 8, 2019, at approximately 2:42 a.m. officers contacted Respondent, who denied knowing the victim. Respondent then later changed her story and said she had not spoken with the victim since December of 2018. On October 15, 2019, Respondent turned herself in to the Newport Police Department and was arrested.

13. On September 19, 2022, Respondent pled no contest, and was convicted of violating Penal Code Section 487, subdivision (a), grand theft from a person, a misdemeanor. Respondent

1 was placed on probation for one-year and ordered to complete 400 hours of community service
2 and pay fees and fines.

3 *People of the State of California v. Halima Usama Elsherbiny*

4 **Orange County Superior Court Case No. 21WM12202**

5 14. On February 14, 2021, at approximately 6:09 pm., officers with the Costa Mesa
6 Police Department responded to reporting party who was following a vehicle driving recklessly
7 on the freeway. The reporting party observed the vehicle swerving into opposing lanes of traffic
8 and possibly colliding with a curb. Another reporting party advised that the same vehicle was
9 traveling in a residential area with damage to the vehicle and no tires on the left side. An officer
10 then knocked at the residence where Respondent identified herself as the driver of the vehicle.
11 Respondent was taken to the sidewalk and performed field sobriety tests poorly. The officer
12 placed Respondent under arrest for driving under the influence of drugs. During booking,
13 Respondent submitted to blood test, which came back positive for Alprazolam,
14 tetrahydrocannabinol (THC) and Oxycodone.

15 15. On May 25, 2023, Respondent pled guilty and was convicted of violating Vehicle
16 Code section 23152, subdivision (f), driving under the influence of drugs, a misdemeanor.
17 Respondent was placed on three years' probation, ordered to pay a fine in the amount of
18 \$1,756.00, completion of a three-month first offender program, and complete 40 hours of
19 community service, which was stayed pending completion of probation

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct: Acts Involving Moral Turpitude, Dishonesty and Deceit)**

22 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
23 in that she engaged in acts involving moral turpitude, dishonesty, and deceit, when she
24 accompanied a female accomplice to assault a victim and steal her purse, as more fully alleged in
25 paragraphs 12 through 13, as more fully set forth above and incorporated herein by reference.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Dangerous Use of Drugs)**

3 17. Respondent is subject to disciplinary action under Code section 4301, subdivision (h)
4 in that Respondent drove recklessly while under the influence of drugs to an extent or in a manner
5 dangerous or injurious to herself or others, as more fully set forth in paragraphs 14 and 15 and
6 incorporated herein by reference.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct: Unlawful Use of Controlled Substances)**

9 18. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
10 in that Respondent was convicted of Penal Code Section 487(a), and Vehicle Code Section
11 23152(f) for driving while under the influence of controlled substances and dangerous drugs, as
12 more fully set forth in paragraphs 14 and 15 and incorporated herein by reference.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct: Criminal Conviction of a Substantially Related Crime)**

15 19. Respondent is subject to disciplinary action under Code section 4301, subdivision (l),
16 in that Respondent was convicted of Penal Code Section 487(a), and Vehicle Code Section
17 23152(f), crimes that are substantially related to the qualifications, functions, and duties of a
18 licensee, as more fully set forth in paragraphs 12 through 15 and incorporated herein by reference.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct)**

21 20. Respondent is subject to disciplinary action under Code section 4301, in that she
22 displayed unprofessional conduct, as more fully set forth in paragraphs 12 through 15 and
23 incorporated herein by reference.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Board issue a decision:

27 1. Revoking Pharmacy Technician License Number 170088, issued to Halima Usama
28 Elsherbiny;

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2. Ordering Halima Usama Elsherbiny to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 2/19/2024

Sodergren, Anne@DCA Digitally signed by Sodergren, Anne@DCA
Date: 2024.02.19 13:43:10 -08'00'

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

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