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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:

13 **LYDIA A. ORTEGA**
14 **5172 Lolina Ln**
15 **Cypress, CA 90630**

16 **Pharmacy Technician License**
17 **No. TCH 27960**

18 Respondent.

Case No. 7753

DEFAULT DECISION AND ORDER
[Gov. Code, § 11520]

19 **FINDINGS OF FACT**

20 1. On or about June 12, 2024, Complainant Anne Sodergren, in her official capacity as
21 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed
22 Accusation No. 7753 against Lydia A. Ortega (Respondent) before the Board of Pharmacy.
23 (Accusation attached as Exhibit A.)

24 2. On or about December 23, 1998, the Board issued Pharmacy Technician License No.
25 TCH 27960 to Respondent. The Pharmacy Technician License was in full force and effect at all
26 times relevant to the charges brought in Accusation No. 7753 and will expire on October 31, 2024
27 unless renewed.

28 3. On or about June 17, 2024, Respondent was served by Certified and First Class Mail
copies of the Accusation No. 7753, Statement to Respondent, Notice of Defense, Request for
Discovery, and discovery statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
Respondent's address of record which, pursuant to Business and Professions Code section 4100,

1 is required to be reported and maintained with the Board. Respondent's address of record was
2 and is:

3 5172 Lolina Ln.

4 Cypress, CA 90630.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c), and/or Business and Professions Code section
7 124.

8 5. Government Code section 11506, subdivision (c), states, in part:

9 The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense . . . and the notice shall be deemed a specific denial of all
11 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
12 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
13 discretion may nevertheless grant a hearing.

14 6. The Board takes official notice of its records and the fact that Respondent failed to
15 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
16 waived her right to a hearing on the merits of Accusation No. 7753.

17 7. Government Code section 11520, subdivision (a), states, in part:

18 If the respondent either fails to file a notice of defense . . . or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
21 respondent

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
25 finds that the charges and allegations in Accusation No. 7753, are separately and severally, found
26 to be true and correct by clear and convincing evidence.

27 9. The Board finds that the actual costs for enforcement incurred by the Office of the
28 Attorney General are \$4,005.00, and the investigative costs incurred by the Board are \$5,233.25
as of July 24, 2024.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Lydia A. Ortega has subjected her Pharmacy Technician License No. TCH 27960 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 License 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. Respondent has subjected her pharmacy technician license to disciplinary action under Business and Professions Code section 4301, subdivisions (o) and (f), in that Respondent acted dishonestly when she stole controlled substances and/or other pharmacy items.

b. Respondent has subjected her pharmacy technician license to disciplinary action under Business and Professions Code section 4301, subdivision (o), and under Health and Safety Code section 11173, subdivision (a), in that Respondent violated pharmacy law when she fraudulently obtained and possessed controlled substances.

c. Respondent has subjected her pharmacy technician license to disciplinary action under Business and Professions Code sections 4059, 4060, and 4301, subdivisions (o) and (j), in that Respondent violated pharmacy law when she fraudulently obtained and possessed controlled substances.

d. Respondent has subjected her pharmacy technician license to disciplinary action under Business and Professions Code section 4301, subdivisions (o) and (h), and under Health and Safety Code section 11170, in that Respondent acted unprofessionally when she self-administered controlled substances.

e. Respondent has subjected her pharmacy technician license to disciplinary action under Business and Professions Code section 4327 in that Respondent was on duty when she sold or dispensed a drug at the pharmacy.

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ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 27960, issued to Respondent Lydia A. Ortega, is revoked.

Upon revocation per this Order, under Business and Professions Code section 4307, subdivision (a), Respondent shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or serving in any other position with management or control of a licensee. This prohibition shall continue until the license is issued or reinstated.

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 September 20, 2024.

It is so ORDERED on August 21, 2024.

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

By



Seung W. Oh, Pharm.D.
Board President

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DOJ Matter ID:SD2024800462

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(LYDIA A. ORTEGA)

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8

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

12 In the Matter of the Accusation against:

Case No. 7753

13 **LYDIA A. ORTEGA**
14 **5172 Lolina Ln**
Cypress, CA 90630

ACCUSATION

15 **Pharmacy Technician License No. TCH 27960**

16 Respondent.

17
18 **PARTIES**

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

21 2. On or about December 23, 1998, the Board issued Pharmacy Technician License
22 Number TCH 27960 to Lydia A. Ortega (Respondent). The Pharmacy Technician License was in
23 full force and effect at all times relevant to the charges brought herein and will expire on October
24 31, 2024 unless renewed.

25 **JURISDICTION**

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

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

4 5. Section 4300, subdivision (a), of the Code states that “[e]very license issued may be
5 suspended or revoked.”

6 6. Section 4300.1 of the Code states:

7 The expiration, cancellation, forfeiture, or suspension of a board-issued license
8 by operation of law or by order or decision of the board or a court of law, the
9 placement of a license on a retired status, or the voluntary surrender of a license by a
10 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.

11 7. Section 118, subdivisions (b) and (c), of the Code states, in part:

12 (b) The suspension, expiration, or forfeiture by operation of law of a license
13 issued by a board in the department, or its suspension, forfeiture, or cancellation by
14 order of the board or by order of a court of law, or its surrender without the written
consent of the board, shall not, during any period in which it may be renewed,
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.

15 (c) As used in this section, “board” includes an individual who is authorized by
16 any provision of this code to issue, suspend, or revoke a license, and “license”
17 includes “certificate,” “registration,” and “permit.”
18

19 **STATUTORY PROVISIONS**

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

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

23 ...

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

26 ...

27 (h) The administering to oneself, of any controlled substance, or the use of any
28 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

1 to any other person or to the public, or to the extent that the use impairs the ability of
2 the person to conduct with safety to the public the practice authorized by the license.

3 . . .

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

6 . . .

7 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
8 abetting the violation of or conspiring to violate any provision or term of this chapter
9 or of the applicable federal and state laws and regulations governing pharmacy,
10 including regulations established by the board or by any other state or federal
11 regulatory agency.

12

13 9. Section 4022 of the Code states

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

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

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

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

24 10. Section 4059 of the Code states, in part, that a person may not furnish any dangerous
25 drug except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
26 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device,
27 except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
28 naturopathic doctor pursuant to Section 3640.7.

11. Section 4060 of the Code states, in part:

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. . . .

12. Section 4307 of the Code states:

(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of any partnership, corporation, trust, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

(b) Manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of a license as used in this section and Section 4308, may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. However, no order may be issued in that case except as to a person who is named in the caption, as to whom the pleading alleges the applicability of this section, and where the person has been given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision shall be in addition to the board's authority to proceed under Section 4339 or any other provision of law.

13. Section 4327 of the Code states that "[a]ny person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

14. Health and Safety Code section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for oneself.

15. Health and Safety Code section 11173, subdivision (a), states:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

1 **REGULATORY PROVISIONS**

2 16. California Code of Regulations, title 16, section 1770, states, in part:

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

11 . . .

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

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

17 (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or
18 conspire to violate, any provision of Chapter 13 (commencing with Section
19 801) of Title 21 of the United States Code regulating controlled substances
20 or any law of this state, or any other jurisdiction, relating to controlled
21 substances or dangerous drugs.

22 (3) Violate or attempt to violate, directly or indirectly, or to aid, abet or
23 conspire to violate, any provision of law of this state, or any other jurisdiction,
24 relating to government provided or government supported healthcare.

25 (4) Involve dishonesty, fraud, deceit, or corruption related to money, items,
26 documents, or personal information.

27

28 **COST RECOVERY**

17. Section 125.3 of the Code provides, in 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, with failure of the licensee to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

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1 **DEFINITIONS**

2 18. **Carisoprodol**, often sold as Soma, is a muscle relaxant and its metabolite,
3 meprobamate, is a Schedule-IV controlled substance under Health and Safety Code section
4 11057, subdivision (d)(18), and is a dangerous drug under Code section 4022.

5 19. **Diazepam**, often sold as Valium, is a muscle relaxant and anti-anxiety medication
6 and a Schedule-IV controlled substance under Health and Safety Code section 11057, subdivision
7 (d)(9), and is a dangerous drug under Code section 4022.

8 **FACTUAL ALLEGATIONS**

9 20. Respondent worked as a pharmacy technician at an Orange County pharmacy¹ that
10 reported drug losses to the Board in 2023. When interviewed in September 2023, Respondent
11 admitted stealing controlled substances from the pharmacy at least since the beginning of 2022,
12 specifically approximately 15 to 20 carisprodol 350-mg. tablets and 30 diazepam 10-mg. tablets.
13 She did not have a prescription for either medication. She also said that, over an approximately
14 one-year period, she would take non-prescription items from the pharmacy such as drinks and
15 allergy medication that she did not pay for. The pharmacy suspended Respondent in September
16 2023 when she was arrested for this conduct, and subsequently terminated her in October 2023.

17 21. Respondent admitted to consuming carisprodol and diazepam while on duty at the
18 pharmacy. One day at the pharmacy in 2022 or 2023, Respondent was working the prescription
19 pick-up window after lunch and, according to the pharmacist, appeared to be out of sorts. The
20 pharmacist had Respondent rest until a family member came to pick her up.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct – Dishonest Conduct)**

23 22. Respondent is subject to disciplinary action under Code section 4301, subdivisions
24 (o) and (f), in that Respondent acted dishonestly when she stole controlled substances and/or
25 other pharmacy items. The circumstances are those described in the Factual Allegations above
26 and which are incorporated by reference as if fully set forth here.

27 ¹ The pharmacy knew and employed Respondent under a different surname that Respondent stated was her
28 married name. To date, this other surname is not one Respondent has used related to her Pharmacy Technician
license or in renewals with the Board.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Violation of Pharmacy Law – Possession of**
3 **Controlled Substances by Fraud)**

4 23. Respondent is subject to disciplinary action under Code section 4301, subdivision (o)
5 and under Health and Safety Code section 11173, subdivision (a), in that Respondent violated
6 pharmacy law when she fraudulently obtained and possessed controlled substances. The
7 circumstances are those described in the Factual Allegations above and which are incorporated by
8 reference as if fully set-forth here.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct – Violation of Controlled Substances Law –**
11 **Possession of Dangerous Drugs/Controlled Substances without Prescription)**

12 24. Respondent is subject to disciplinary action under Code sections 4059, 4060, and
13 4301, subdivisions (o) and (j), in that Respondent violated pharmacy law when she fraudulently
14 obtained and possessed controlled substances. The circumstances are those described in the
15 Factual Allegations above and which are incorporated by reference as if fully set-forth here.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Self-Administration of Controlled Substances)**

18 25. Respondent is subject to disciplinary action under Code section 4301, subdivisions
19 (o) and (h), and under Health and Safety Code section 11170, in that Respondent acted
20 unprofessionally when she self-administered controlled substances. The circumstances are those
21 described in the Factual Allegations above and which are incorporated by reference as if fully set-
22 forth here.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(Under the Influence of Controlled Substances while on Dispensing Duty)**

25 26. Respondent is subject to disciplinary action under Code section 4327 in that
26 Respondent was on duty when she sold or dispensed a drug at the pharmacy. The circumstances
27 are those described in the Factual Allegations above and which are incorporated by reference as if
28 fully set-forth here.

OTHER MATTERS

27. Pursuant to Code section 4307, if discipline is imposed in the Accusation against Pharmacist Technician License Number TCH 27960 issued to Lydia A. Ortega, then Lydia A. Ortega shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist Technician License Number TCH 27960 is placed on probation or until Pharmacist Technician License Number TCH 27960 is reinstated if it is revoked.

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 License Number TCH 27960, issued to Lydia A. Ortega;
2. Ordering Lydia A. Ortega 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, if placed on probation, the costs of probation monitoring;
3. Prohibiting Lydia A. Ortega from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist Technician License Number TCH 27960 is placed on probation or until Pharmacist Technician License Number TCH 27960 is reinstated if Pharmacist Technician License Number TCH 27960 issued to Lydia A. Ortega is revoked; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 6/12/2024

Sodergren,
Anne@DCA

Digitally signed by
Sodergren, Anne@DCA
Date: 2024.06.12 19:29:54
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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