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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4759

12 **MORGAN MACKAY SNYDER**
13 **1016 S. 18th Street**
14 **El Centro, CA 92243**

ACCUSATION

15 **Pharmacy Technician Registration**
16 **No. TCH 53949**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about January 22, 2004, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 53949 to Morgan Mackay Snyder (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times until his license was placed on
25 hold on February 5, 2013, for failure to pay a Citation described below, and Respondent's license
26 thereafter expired on August 31, 2013, unless thereafter renewed.

1 **JURISDICTION**

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

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

9 5. Section 482 of the Code states:

10 Each board under the provisions of this code shall develop criteria to
11 evaluate the rehabilitation of a person when:

12 (a) Considering the denial of a license by the board under Section 480; or

13 (b) Considering suspension or revocation of a license under Section 490.

14 Each board shall take into account all competent evidence of rehabilitation
15 furnished by the applicant or licensee.

16 6. Section 490 of the Code provides, in pertinent part, that a board may suspend or
17 revoke a license on the ground that the licensee has been convicted of a crime substantially related
18 to the qualifications, functions, or duties of the business or profession for which the license was
19 issued..

20 7. Section 493 of the Code states:

21 Notwithstanding any other provision of law, in a proceeding conducted by a
22 board within the department pursuant to law to deny an application for a license or
23 to suspend or revoke a license or otherwise take disciplinary action against a
24 person who holds a license, upon the ground that the applicant or the licensee has
25 been convicted of a crime substantially related to the qualifications, functions, and
26 duties of the licensee in question, the record of conviction of the crime shall be
27 conclusive evidence of the fact that the conviction occurred, but only of that fact,
28 and the board may inquire into the circumstances surrounding the commission of
the crime in order to fix the degree of discipline or to determine if the conviction is
substantially related to the qualifications, functions, and duties of the licensee in
question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
'registration.'

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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 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

(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.

....

REGULATIONS

9. Section 1023.6(c) of Title 16 of the California Code of Regulations states:

When an order of abatement is not contested or if the order is appealed and the person or entity cited does not prevail, failure to abate the violation charged within the time specified in the citation shall constitute a violation and failure to comply with the order of abatement. Failure to timely comply with an order of abatement may result in disciplinary action being taken by the board or other appropriate judicial relief being taken against the person cited.

COSTS

10. Section 125.3, subdivision (a), states, in pertinent part:

Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . 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.

11. Section 125.9(b)(5) provides as follows:

Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

FIRST CAUSE FOR DISCIPLINE

(Failure to Abate Citation)

12. Respondent is subject to disciplinary action under Code sections 125.9(b)(5) and 4301 in that, in violation of section 1023.6(c) of Title 16 of the California Code of Regulations,

1 Respondent failed to abate the Citation issued by the Board to Respondent, which conduct also
2 constitutes unprofessional conduct within the meaning of Code sections 4301. The circumstances
3 are as follows:

4 13. On October 23, 2012, the Board issued a Citation and Fine in Case No. CI 2011
5 52205 to Respondent for Unprofessional Conduct (Citation) in the total amount of \$2,500 for (1)
6 for administering to oneself, of any control substance, or the use of any dangerous drug or of
7 alcoholic beverage in violation of Code section 4301, subdivision (h); and (2) conviction of a
8 crime substantially related to the practice of pharmacy. The Citation provided that it was required
9 to be paid by November 22, 2012 in the amount of \$2,500. The Citation was issued and was not
10 appealed or contested by Respondent.

11 14. The circumstances of the Citation arose from Respondent's DUI misdemeanor
12 conviction in a case which Complainant is informed and believes was styled as *People v. Morgan*
13 *Mackay Snyder*, in the Superior Court of Riverside County case no. BAM1201299, in which
14 Respondent was convicted of Vehicle Code section 23152, subdivision (b), with a enhancement
15 for Blood Alcohol Content (BAC) over 0.15 percent. Respondent's BAC at the time of arrest was
16 0.167 percent. As a result of his conviction, Respondent was placed on two-years probation and
17 sentenced to serve 30 days in jail, enrolled in and complete a multiple offender DUI program, and
18 pay a fine.

19 15. Notwithstanding the Citation, Respondent failed to pay the fine, now still
20 outstanding in the amount of \$2,500.

21 **SECOND CAUSE FOR DISCIPLINE**

22 (Unprofessional Conduct: Public Intoxication)

23 16. Respondent is subject to disciplinary action under section Code section 4301,
24 subdivision (h) in that Respondent administered to himself a controlled substance, or used any
25 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
26 injurious to himself. The circumstances are as follows:

27 17. On March 24, 2013, at approximately 12:32 a.m., officers were dispatched to a bar
28 regarding a disturbance by Respondent where it was reported that Respondent became highly

1 intoxicated, attempted to fight other patrons in the bar, and refused to leave when asked, and,
2 upon leaving reportedly threw a skateboard against the wall of the establishment. Officers
3 observed that Respondent displayed objective signs of intoxication. Respondent admitted to
4 drinking beer and could feel its effects.

5 18. The officers arrested Respondent for public intoxication. While being transported,
6 Respondent slip his handcuffs to his front, removed his seatbelt, and sporadically slammed his
7 head into the center divider of the police vehicle. Respondent was released form custody pursuant
8 to Penal Code section 849, subdivision (b)(2).

9 **DISCIPLINE CONSIDERATIONS**

10 19. To determine the degree of discipline, if any, to be imposed on Respondent,
11 Complainant alleges that on or about October 23, 2012, in a prior action, the Board of Pharmacy
12 issued Citation Number CI 2011 52205 and ordered Respondent to pay such fine by November
13 22, 2012. That Citation is now final and is incorporated by reference as if fully set forth.

14 **PRAYER**

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

17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 53949
18 issued to Morgan Mackay Snyder ;

19 2. Ordering Morgan Mackay Snyder to pay the Board of Pharmacy the reasonable costs
20 of the investigation and enforcement of this case, pursuant to Business and Professions Code
21 section 125.3; and

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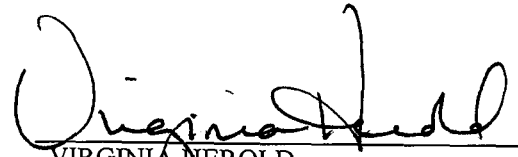
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3. Taking such other and further action as deemed necessary and proper.

DATED: 11/4/13



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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