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

12 In the Matter of the Accusation Against:

Case No. 5177

13 **STEVEN YALE SZEKULA**  
14 7924 Alpine View Drive  
15 Roseville, California 95747

**ACCUSATION**

15 **Pharmacy Technician Registration**  
16 **No. TCH 126288**

17 Respondent.

18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

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

22 **Pharmacy Technician Registration**

23 2. On or about December 31, 2012, the Board issued Pharmacy Technician Registration  
24 Number TCH 126288 to Steven Yale Szekula ("Respondent"). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on February 29, 2016, unless renewed.

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1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:

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

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

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

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

9 (4) Revoking his or her license.

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

12 4. Code section 4300.1 states:

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

17 **STATUTORY PROVISIONS**

18 5. Code section 4301 states, in pertinent part:

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

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

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

26 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
27 abetting the violation of or conspiring to violate any provision or term of this chapter  
28 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 . . . .

1 6. Code section 4060 states, in pertinent part:

2 No person shall possess any controlled substance, except that furnished to a  
3 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
5 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
6 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to  
7 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
8 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
9 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

7 7. Health and Safety Code section 11350(a), states:

8 Except as otherwise provided in this division, every person who possesses (1)  
9 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of  
10 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of  
11 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section  
12 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled  
13 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon  
14 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to  
15 practice in this state, shall be punished by imprisonment pursuant to subdivision (h)  
16 of Section 1170 of the Penal Code.

#### 13 COST RECOVERY

14 8. Code section 125.3 provides, in pertinent part, that the Board may request the  
15 administrative law judge to direct a licentiate found to have committed a violation or violations of  
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
17 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
19 included in a stipulated settlement.

#### 20 DRUGS

21 9. *Methamphetamine* is a Schedule II controlled substance as designated by Health and  
22 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Code section 4022.

23 10. *Oxazepam* is a Schedule IV controlled substance as designated by Health and Safety  
24 Code section 11057(d)(23), and is a dangerous drug pursuant to Code section 4022.

25 11. *Temazepam* is a Schedule IV controlled substance as designated by Health and Safety  
26 Code section 11057(d)(29), and is a dangerous drug pursuant to Code section 4022.

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1 **BACKGROUND**

2 12. At all times relevant to the charges brought herein, Respondent was employed as a  
3 registered pharmacy technician at Walmart Pharmacy #10-5230, located at 3460 El Camino  
4 Avenue, Sacramento, California ("Walmart").

5 13. On or about May 15, 2013, a Walmart employee brought a wallet to Walmart's "lost  
6 and found". The wallet was opened to determine ownership and a small bag containing a white  
7 powdery substance fell out. Respondent was identified as the owner of the wallet and  
8 acknowledged losing it, but denied having knowledge of the bag containing the white substance  
9 found inside. The following day Respondent tested positive for oxazepam, methamphetamine,  
10 and temazepam. He was terminated from his employment at Walmart on May 21, 2013.

11 14. Respondent admitted that he has been a recovering alcoholic and drug addict his  
12 whole life and that methamphetamine was his drug of choice. Respondent could not explain the  
13 presence of oxazepam or temazepam in his drug test results, nor did he produce a valid  
14 prescription for those drugs. He stated that the "false positive or in realty a 'positive' testing for  
15 methamphetamine" could have been caused by "spending time around people who were still  
16 using".

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Self-Administration of Controlled Substances)

19 15. Respondent is subject to disciplinary action pursuant to Code section 4301(h), for  
20 unprofessional conduct, in that in on or around May 15, 2013, Respondent self-administered  
21 methamphetamine, oxazepam, and temazepam.

22 **SECOND CAUSE FOR DISCIPLINE**

23 (Violation of State Laws Regulating Controlled Substances)

24 16. Respondent is subject to disciplinary action pursuant to Code section 4301(j), for  
25 unprofessional conduct, in that on or around May 15, 2013, Respondent possessed  
26 methamphetamine, oxazepam, and temazepam, as set forth in paragraphs 12 and 14, above,  
27 without a valid prescription from a physician, dentist, podiatrist, optometrist, veterinarian, or

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1 naturopathic doctor, in violation of Code section 4060 and Health and Safety Code  
2 section 11350(a).

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Violation of the Pharmacy Law)

5 17. Respondent is subject to disciplinary action pursuant to Code section 4301(o), for  
6 unprofessional conduct, in that in on or around May 15, 2013, Respondent violated or attempted  
7 to violate, directly or indirectly, a provision or term of the Pharmacy Law (Bus. & Prof. Code  
8 section 4000, et seq.), specifically, Code section 4060, as set forth in paragraph 15, above.

9 **PRAYER**

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

- 12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 126288,  
13 issued to Steven Yale Szekula;
- 14 2. Ordering Steven Yale Szekula to pay the Board of Pharmacy the reasonable costs of  
15 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
16 125.3; and,
- 17 3. Taking such other and further action as deemed necessary and proper.

18  
19 DATED: \_\_\_\_\_

8/14/14



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

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