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

11 In the Matter of the Accusation Against:

Case No. 5345

12 **JOHN JUERGEN PANFIL**
13 **965 Echo Drive**
Los Altos, CA 94024

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **128920**

16 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 December 20, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 128920 to John Juergen Panfil (Respondent). The Pharmacy
24 Technician Registration expired on June 30, 2014, and has not been renewed.

25 **JURISDICTION**

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

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

4 5. Section 4300.1 of the Code states:

5 “The expiration, cancellation, forfeiture, or suspension of a board-issued license by
6 operation of law or by order or decision of the board or a court of law, the placement of a license
7 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
8 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
9 proceeding against, the licensee or to render a decision suspending or revoking the license.”

10 **STATUTORY PROVISIONS**

11 6. Section 4060 of the Code states:

12 “No person shall possess any controlled substance, except that furnished to a person upon
13 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
14 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
15 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
16 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
17 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
18 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
19 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
20 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
21 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
22 labeled with the name and address of the supplier or producer.

23 ...”

24 7. Section 4301 of the Code provides, in relevant part:

25 “The board shall take action against any holder of a license who is guilty of unprofessional
26 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

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

28 ...

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

3 . . .

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

8 . . .”

9 8. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
10 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
11 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

12 9. Clonazepam is a Schedule IV controlled substance as designated by Health and
13 Safety Code section 11057, subdivision (d)(7) and a dangerous drug as designated by Business
14 and Professions Code section 4022.

15 10. Methamphetamine is a Schedule II controlled substance as designated by Health and
16 Safety Code section 11055, subdivision (d)(2) and a dangerous drug as designated by Business
17 and Professions Code section 4022. It is a stimulant drug.

18 COSTS

19 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
23 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
24 included in a stipulated settlement.

25 CAUSE FOR DISCIPLINE

26 (Possession of Controlled Substances)

27 12. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
28 and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that

1 Respondent possessed, conspired to possess, and/or assisted in or abetted possession of
2 controlled substances without a prescription. The circumstances of Respondent's conduct are as
3 follows:

4 a. On or about July 3, 2013, a police officer with the Mountain View Police Department
5 approached Respondent as he was sitting in a vehicle that was parked in a parking lot in Mountain
6 View, California. Pursuant to a search of the vehicle, the officer discovered several clonazepam
7 pills in a pill bottle located in the vehicle's glove box. Respondent told the officer that the
8 clonazepam pills belonged to Respondent's friend and that Respondent had taken one of the pills.
9 The officer also discovered methamphetamine in a plastic zip lock bag, a portion of a straw that
10 appeared to have methamphetamine residue on it, and a digital scale that appeared to have
11 methamphetamine residue on it. Respondent was then arrested and transported to the police
12 station.

13 b. While at the police station, an officer asked Respondent if he had "[a] pill problem,"
14 to which Respondent replied, "[i]t appears that way."

15 c. While at the police station, Respondent submitted to a blood test, the results of which
16 showed that Respondent tested positive for methamphetamine and hydrocodone.

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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 Registration Number TCH 128920 issued to John Juergen Panfil;
2. Ordering John Juergen Panfil 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 3/13/15 

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

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