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7

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

11 In the Matter of the Accusation Against:

Case No. 3264

12 OAH No. L- 2009121195

13 **JASON MATTHEW HALSTEAD**

DEFAULT DECISION AND ORDER

14 12977 Robin Lane
15 Chino, CA 91710
16 Pharmacy Technician License No. TCH 80317

[Gov. Code, §11520]

17
18 Respondent.

19
20 **FINDINGS OF FACT**

21 1. On or about October 27, 2009, Complainant Virginia Herold, in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
23 Accusation No. 3264 against Jason Matthew Halstead (Respondent) before the Board of
24 Pharmacy.

25 2. On or about January 23, 2008, the Board of Pharmacy (Board) issued Pharmacy
26 Technician License No. TCH 80317 to Respondent. The Pharmacy Technician License was in
27 full force and effect at all times relevant to the charges brought herein and will expire on
28 December 31, 2009, unless renewed.

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3. On or about November 10, 2009, Rebeca Garcia, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3264, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:
12977 Robin Lane
Chino, CA 91710.

A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. On or about November 30, 2009, Respondent signed and returned a Notice of Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's address of record and it informed him that an administrative hearing in this matter was scheduled for May 26, 2010. Respondent failed to appear at that hearing.

6. Government Code section 11506 states, in pertinent part:

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

7. California Government Code section 11520 states, in pertinent part:

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

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the evidence on file herein, finds that the allegations in Accusation No. 3264 are true.

1 9. The total cost for investigation and enforcement in connection with the Accusation
2 are \$5,463.00 as of May 28, 2010.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent Jason Matthew Halstead has
5 subjected his Pharmacy Technician License No. TCH 80317 to discipline.

6 2. A copy of the Accusation is attached.

7 3. The agency has jurisdiction to adjudicate this case by default.

8 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
9 License based upon the following violations alleged in the Accusation:

10 a. Convictions of Substantially Related Crimes. Respondent is subject to
11 disciplinary action under section 490 and section 4301, subdivision (1), in conjunction with
12 California Code of Regulations, title 16, section 1770, in that Respondent was convicted of
13 crimes substantially related to the qualifications, functions or duties of a Licensed Pharmacy
14 Technician, as follows:

15 1. October 16, 2008 Conviction for Possession of a Controlled
16 Substance.

17 On or about October 16, 2008, after pleading not guilty, Respondent was convicted of one
18 misdemeanor count of violating Health and Safety Code section 11377, subdivision (a)
19 [possession of a controlled substance], in the criminal proceeding entitled *The People of The State*
20 *of California v. Jason Matthew Halstead* (Super. Ct. San Bernardino County, 2008, No.
21 MCH800542). On or about April 3, 2008, Respondent was arrested after he was observed taking
22 copper tubing, which did not belong to him, from the Gordon Ranch Shopping Center in San
23 Bernardino, California. Respondent consented to a vehicle search of his nearby truck, where a
24 glass pipe containing a white granular substance was discovered by the officers of the San
25 Bernardino Sheriff's Department. The white substance tested positive for methamphetamine.

26 2. November 15, 2005 Conviction for Carrying a Loaded Firearm in a
27 Public Place.

1 On or about November 15, 2005, after pleading guilty, Respondent was convicted of one
2 misdemeanor count of violating Penal Code section 12031, subdivision (a)(1) [carrying a loaded
3 firearm in a public place], in the criminal proceeding entitled *The People of The State of*
4 *California v. Jason Matthew Halstead* (Super. Ct. San Bernardino County, 2005, No.
5 MWV099923).

6 b. Dishonest Acts. Respondent is subject to disciplinary action under section 4301,
7 subdivision (f), in that Respondent committed dishonest acts, as follows:

8 a. On or about April 3, 2008, Respondent was observed taking copper
9 tubing from a building.

10 b. On his application for licensure, which he signed on or about
11 November 7, 2007, Respondent failed to disclose his past conviction, which he was required to
12 disclose.

13 c. Signing a Document That Misrepresents Factual Truth. Respondent is subject to
14 disciplinary action under section 4301, subdivision (g), in that on or about November 7, 2007,
15 Respondent knowingly signed a document that misrepresented factual truth in that he failed to
16 disclose on his license application that on or about November 15, 2005, he was convicted of
17 criminal offenses.

18 d. Violating Statute Regulating Controlled Substances and Dangerous Drugs.
19 Respondent is subject to disciplinary action under section 4301, subdivision (j), in that on or
20 about April 3, 2008, Respondent violated a state statute regulating controlled substances and
21 dangerous drugs.

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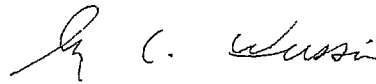
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 80317, heretofore issued to Respondent Jason Matthew Halstead, is revoked.

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 on August 25, 2010.

It is so ORDERED July 26, 2010.



STANLEY C. WEISSER, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

Exhibit A: Accusation No.3264

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Exhibit A
Accusation No. 3264

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **JASON MATTHEW HALSTEAD**
12977 Robin Lane
13 Chino, CA 91710
14 Pharmacy Technician License No. TCH 80317
15 Respondent.

Case No. 3264

ACCUSATION

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs.
- 22 2. On or about January 23, 2008, the Board of Pharmacy (Board) issued
23 Pharmacy Technician License Number TCH 80317 to Jason Matthew Halstead (Respondent).
24 The Pharmacy Technician License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on December 31, 2009, unless renewed.

26 **JURISDICTION**

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

1 otherwise indicated.

2 **STATUTORY PROVISIONS**

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

7 5. Section 490 provides, in pertinent part, that a board may suspend or
8 revoke a license on the ground that the licensee has been convicted of a crime substantially related
9 to the qualifications, functions, or duties of the business or profession for which the license was
10 issued.

11 6. Section 4301 states:

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

16

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

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

22

23 "(j) The violation of any of the statutes of this state or of the United States
24 regulating controlled substances and dangerous drugs.

25

26 "(l) The conviction of a crime substantially related to the qualifications,
27 functions, and duties of a licensee under this chapter. The record of conviction of a violation of
28 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating

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

15 **REGULATORY PROVISIONS**

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

17 "For the purpose of denial, suspension, or revocation of a personal or facility
18 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
19 Code, a crime or act shall be considered substantially related to the qualifications, functions or
20 duties of a licensee or registrant if to a substantial degree it evidences present or potential
21 unfitness of a licensee or registrant to perform the functions authorized by his license or
22 registration in a manner consistent with the public health, safety, or welfare."

23 **COST RECOVERY**

24 8. Section 125.3 provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations
26 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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3 **CONTROLLED SUBSTANCE - DANGEROUS DRUG**

4 9. Methamphetamine is a Schedule II controlled substance as designated by
5 Health and Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous
6 drug pursuant to Business and Professions Code section 4022.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Convictions of Substantially Related Crimes)**

9 10. Respondent is subject to disciplinary action under section 490 and
10 section 4301, subdivision (l), in conjunction with California Code of Regulations, title 16,
11 section 1770, in that Respondent was convicted of crimes substantially related to the
12 qualifications, functions or duties of a Licensed Pharmacy Technician, as follows:

13 a. On or about October 16, 2008, after pleading not guilty,
14 Respondent was convicted of one misdemeanor count of violating Health and Safety Code
15 section 11377, subdivision (a) [possession of a controlled substance], in the criminal proceeding
16 entitled *The People of The State of California v. Jason Matthew Halstead* (Super. Ct. San
17 Bernardino County, 2008, No. MCH800542). On or about April 3, 2008, Respondent was
18 arrested after he was observed taking copper tubing, which did not belong to him, from the
19 Gordon Ranch Shopping Center in San Bernardino, California. Respondent consented to a
20 vehicle search of his nearby truck, where a glass pipe containing a white granular substance was
21 discovered by the officers of the San Bernardino Sheriff's Department. The white substance
22 tested positive for methamphetamine.

23 b. On or about November 15, 2005, after pleading guilty, Respondent
24 was convicted of one misdemeanor count of violating Penal Code section 12031, subdivision
25 (a)(1) [carrying a loaded firearm in a public place], in the criminal proceeding entitled *The*
26 *People of The State of California v. Jason Matthew Halstead* (Super. Ct. San Bernardino County,
27 2005, No. MWV099923).

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3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Dishonest Acts)**

5 11. Respondent is subject to disciplinary action under section 4301,
6 subdivision (f), in that Respondent committed dishonest acts, as follows:

7 a. On or about April 3, 2008, Respondent was observed taking
8 copper tubing from a building. Complainant refers to, and by this reference incorporates, the
9 allegations set forth above in paragraph 10, subparagraph (a), as though set forth fully.

10 b. On his application for licensure, which he signed on or about
11 November 7, 2007, Respondent failed to disclose his past conviction, which he was required to
12 disclose. Complainant refers to, and by this reference incorporates, the allegations set forth
13 above in paragraph 10, subparagraph (b), as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Signing a Document That Misrepresents Factual Truth)**

16 12. Respondent is subject to disciplinary action under section 4301,
17 subdivision (g), in that on or about November 7, 2007, Respondent knowingly signed a
18 document that misrepresented factual truth in that he failed to disclose on his license application
19 that on or about November 15, 2005, he was convicted of criminal offenses. Complainant refers
20 to, and by this reference incorporates, the allegations set forth above in paragraph 10,
21 subparagraph (b), as though set forth fully.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Violating Statute Regulating Controlled Substances and Dangerous Drugs)**

24 13. Respondent is subject to disciplinary action under section 4301,
25 subdivision (j), in that on or about April 3, 2008, Respondent violated a state statute regulating
26 controlled substances and dangerous drugs. Complainant refers to, and by this reference
27 incorporates, the allegations set forth above in paragraph 10, subparagraph (a), as though set
28 forth fully.

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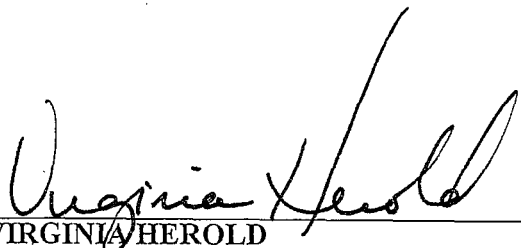
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PRAYER

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

1. Revoking or suspending Pharmacy Technician License Number TCH 80317, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/27/09



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

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