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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:

Case No. 3603

13 **BRIGGETT D. JAMES**
14 **4635 Goya Park Way**
15 **Sacramento, Ca. 95823**
16 **Pharmacist Technician License No. TCH**
17 **61760**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 Respondent.

19 FINDINGS OF FACT

20 1. On or about August 26, 2010, Complainant Virginia Herold, in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
22 Accusation No. 3603 against Briggett D. James (Respondent) before the Board of Pharmacy.
(Accusation attached as Exhibit A.)

23 2. On or about July 11, 2005, the Board of Pharmacy (Board) issued Pharmacist
24 Technician License No. TCH 61760 to Respondent. The Pharmacist Technician License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on April 30,
26 2011, unless renewed.

27 3. On or about September 16, 2010, Respondent was served by Certified and First Class
28 Mail copies of the Accusation No. 3603, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 136 and/or agency specific statute or regulation, is required to be reported and maintained
4 with the Board, which was and is: 4635 Goya Park Way, Sacramento, CA 95823.

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 & Professions Code section
7 124.

8 5. On or about November 1, 2010, the certified mail was returned by the U.S. Postal
9 Service marked "Unclaimed."

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

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

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3603.

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

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

23 9. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 3603,
28 finds that the charges and allegations in Accusation No. 3603 are found to be true.

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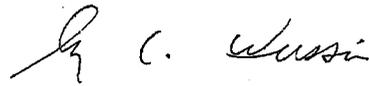
ORDER

IT IS SO ORDERED that Pharmacist Technician License No. TCH 61760, heretofore issued to Respondent Briggett D. James, 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 April 15, 2011.

It is so ORDERED March 16, 2011.



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

10638958.DOC
DOJ Matter ID:SA2010100313

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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9 **BOARD OF PHARMACY**
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11 In the Matter of the Accusation Against:
12 **BRIGGETT D. JAMES**
13 **4635 Goya Park Way**
14 **Sacramento, Ca. 95823**
15 **Pharmacist Technician License No. TCH 61760**
Respondent.

Case No. 3603

ACCUSATION

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about July 11, 2005, the Board of Pharmacy issued Pharmacist Technician
21 License Number TCH 61760 to Briggett D. James (Respondent). The Pharmacist Technician
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on April 30, 2011, unless renewed.

24 **JURISDICTION**

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

28 4. Section 4300 of the Code states:

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

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

5 (1) Suspending judgment.

6 (2) Placing him or her upon probation.

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

8 (4) Revoking his or her license.

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

11 (c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
12 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
13 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
14 may issue the license subject to any terms or conditions not contrary to public policy, including,
15 but not limited to, the following:

16 (1) Medical or psychiatric evaluation.

17 (2) Continuing medical or psychiatric treatment.

18 (3) Restriction of type or circumstances of practice.

19 (4) Continuing participation in a board-approved rehabilitation program.

20 (5) Abstention from the use of alcohol or drugs.

21 (6) Random fluid testing for alcohol or drugs.

22 (7) Compliance with laws and regulations governing the practice of pharmacy.

23 (d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
24 certificate of licensure for any violation of the terms and conditions of probation. Upon
25 satisfactory completion of probation, the board shall convert the probationary certificate to a
26 regular certificate, free of conditions.

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28 ///

1 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
2 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
3 shall have all the powers granted therein. The action shall be final, except that the propriety of
4 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
5 Civil Procedure."

6 5. Section 4301 of the Code states:

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

10 ...

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

14 ...

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

17 ...

18 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
19 violation of or conspiring to violate any provision or term of this chapter or of the applicable
20 federal and state laws and regulations governing pharmacy, including regulations established by
21 the board or by any other state or federal regulatory agency.

22 ...

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

27 7. Section 118, subdivision (b), of the Code provides that the
28 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of

1 jurisdiction to proceed with a disciplinary action during the period within which the license may
2 be renewed, restored, reissued or reinstated.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(MORAL TURPITUDE, DISHONESTY, FRAUD OR DECEIT)**

5 8. Respondent is subject to disciplinary action under section 4301(f) in that Respondent
6 while employed at Wal-Mart Pharmacy No. 10-4309 located at 8961 Greenback Lane,
7 Orangevale, Ca. 95662 and Wal-Mart Pharmacy No. 10-2457 located at 10655 Folsom Blvd.,
8 Rancho Cordova, Ca. 95670 deceitfully and untruthfully used false or fictitious patient names to
9 write or issue false or fictitious prescriptions for promethazine with codeine, a schedule V
10 controlled substance, which were dispensed by a Wal-Mart Pharmacy between June 16, 2008 and
11 December 8, 2008, as follows: Prescription No. 4434970 4435478, 4421517, 4434987, 4434689,
12 4434192, 4401103, 4418026, 4435475, 4421981, 4419738, 4400429, 4400657, 4401099,
13 4401870, 4435755, 4416340, 4400380, 4400151, 4401664, 4401846, and 4400645.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(CONTROLLED SUBSTANCE VIOLATION)**

16 9. Respondent is subject to disciplinary action under section 4301(j)(o) in that
17 Respondent made or issued false prescriptions as specified in paragraph 8 above in violation of
18 section 4324(a).

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(CONTROLLED SUBSTANCE VIOLATION)**

21 10. Respondent is subject to disciplinary action under section 4301(j)(o) in that
22 respondent wrote or issued prescriptions as specified in paragraph 8 above in violation of Health
23 and Safety Code section 11150.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(CONTROLLED SUBSTANCE VIOLATION)**

26 11. Respondent is subject to disciplinary action under section 4301(j)(o) in that
27 Respondent issued prescriptions which were false as specified in paragraph 8 above in violation
28 of Health and Safety Code section 11157.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(MORAL TURPITUDE, DISHONESTY, FRAUD OR DECEIT)**

3 12. Respondent is subject to disciplinary action under section 4301(f) in that respondent
4 between June 16, 2008 and December 8, 2008 while employed at Wal-Mart Pharmacy No. 10-
5 4309 and No. 10-2457 deceitfully and untruthfully created names for patients which were false or
6 fictitious for the following patient names: AM/MU/AH, LB/SY/JY, SY/MT/ TH/MT/TS,
7 BJ/RB/TW/SY/JT, AL/AN/AS, TB/CB and SY/JT/TW.

8 **PRAYER**

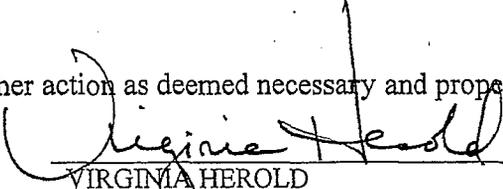
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Pharmacy issue a decision:

11 1. Revoking or suspending Pharmacist Technician License Number TCH 61760, issued
12 to BRIGGETT D. JAMES.

13 2. Ordering BRIGGETT D. JAMES to pay the Board of Pharmacy the reasonable costs
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code
15 section 125.3;

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

17 DATED: 8/26/10


18 VIRGINIA HEROLD
19 Executive Officer
20 Board of Pharmacy
21 Department of Consumer Affairs
22 State of California
23 Complainant

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