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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:
ANTHONY CHARLES PERROTTI
1569 East Lexington Avenue
El Cajon, CA 92019

Pharmacy Technician Registration No. TCH
102203

Respondent.

Case No. 3983
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 27, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3983 against Anthony Charles Perrotti (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 21, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 102203 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2011, unless renewed.

3. On or about June 3, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3983, Statement to Respondent, Blank Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code

1 section 4100, is required to be reported and maintained with the Board, which was and is: 1569
2 East Lexington Avenue, El Cajon, CA 92019.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 5. On or about June 9, 2011, the domestic return receipt reflecting service of the
7 aforementioned documents via certified mail was returned by the U.S. Postal Service and was
8 signed as received.

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
17 3983.

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 Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 3983, finds that
28 the charges and allegations in Accusation No. 3983, are separately and severally, found to be true
and correct by clear and convincing evidence.

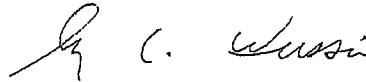
ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 102203, heretofore issued to Respondent Anthony Charles Perrotti, 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 September 15, 2011.

It is so ORDERED August 16, 2011.



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

80517825.DOC
DOJ Matter ID:SD2011800028

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 JAMES M. LEDAKIS
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3 DESIREE I. KELLOGG
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12
13 **ANTHONY CHARLES PERROTTI**
1569 East Lexington Avenue
14 El Cajon, CA 92019
15 **Pharmacy Technician Registration No. TCH**
102203
16
17 Respondent.

Case No. 3983

A C C U S A T I O N

18
19
20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about July 21, 2010, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 102203 to Anthony Charles Perrotti (Respondent). The Pharmacy
26 Technician Registration was in full force and effect at all times relevant to the charges brought
27 herein and will expire on November 30, 2011, unless renewed.
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JURISDICTION

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

15 4. Section 4300(a) of the Code states that “[e]very license issued may be suspended or
16 revoked.”

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

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STATUTORY AND REGULATORY PROVISIONS

6. Section 482 of the Code states:

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

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

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

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

7. Section 4059 of the Code provides, in pertinent part, that a person may not furnish
any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7.

8. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a
person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
shall not apply to the possession of any controlled substance by a manufacturer,

1 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
2 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
physician assistant, when in stock in containers correctly labeled with the name and
address of the supplier or producer.

3 Nothing in this section authorizes a certified nurse-midwife, a nurse
4 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
stock of dangerous drugs and devices.

5 9. Section 4301 of the Code states:

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

9

10 (h) The administering to oneself, of any controlled substance, or the use of any
11 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
12 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.

13

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

15

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

19
20 COST RECOVERY

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

1 DRUGS

2 11. Heroin is a schedule I controlled substance as designated by Health and Safety Code
3 section 11054(c)(11), and is a dangerous drug pursuant to Business and Professions Code section
4 4022.

5 12. Marijuana is a schedule I controlled substance as designated by Health and Safety
6 Code section 11054(d)(13) and is a dangerous drug pursuant to Business and Professions Code
7 section 4022.

8 FIRST CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct-Use of a Controlled Substance)

10 13. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
11 he used a controlled substance, heroin. The circumstances are as follows:

12 a. On August 21, 2010, the El Cajon Police Department initiated a traffic stop of a
13 vehicle in which Respondent was a passenger in El Cajon, California. The police searched the
14 vehicle and located a piece of tin foil with several burn marks, black tar-like track marks and
15 chunks of a black tar-like substance. The police also discovered a plastic baggie containing a
16 substance that appeared to be marijuana and a glass marijuana smoking pipe. Based on the
17 officer's training and experience, he identified the black tar-like substance as heroin which
18 subsequently tested positive for heroin. Respondent admitted to the officer that the tin foil and
19 heroin belonged to him and that he had smoked heroin approximately four hours prior to being
20 questioned by the police officer. Respondent also admitted to the officer that the marijuana and
21 marijuana smoking pipe belonged to him as well. Respondent was subsequently arrested.

22 b. On September 16, 2010, a search warrant was executed for the residence of a
23 suspect in a heroin sales investigation in El Cajon, California. While the San Diego Sheriff's
24 Department was conducting a surveillance of that residence prior to searching the residence, a
25 deputy detained the suspect's brother and Respondent as they were exiting Respondent's vehicle
26 near the residence. Respondent admitted to the police officer that he had used heroin about seven
27 days prior and made the transition to heroin after becoming hooked on Oxycontin. Heroin.

1 marijuana and drug paraphernalia were discovered in Respondent's vehicle. The deputy issued a
2 citation to Respondent for a violation of Health & Safety Code section 11364.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct-Violations of the Chapter)**

5 14. Respondent is subject to disciplinary action under section 4301(o) of the Code for
6 violation of the Pharmacy Act in that on or about August 21 and September 16, 2010, Respondent
7 furnished to himself and possessed controlled substances and dangerous drugs, heroin and
8 marijuana, in violation of Code sections 4059 and 4060 as is more fully described in paragraph
9 13, above.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct-Violating Laws Regulating Controlled Substances)**

12 15. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
13 on or about August 21 and September 16, 2010, Respondent violated the California Uniform
14 Controlled Substances Act (Health and Safety Code 11000, et seq.) by possessing and furnishing
15 controlled substances and dangerous drugs, heroin and marijuana as is more fully described in
16 paragraph 13, above.

17 **PRAYER**

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

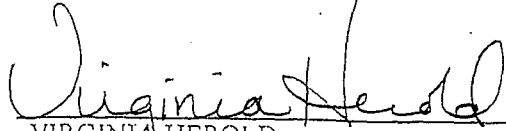
- 20 1. Revoking or suspending Pharmacy Technician Registration Number TCH 102203,
21 issued to Anthony Charles Perrotti;
- 22 2. Ordering Anthony Charles Perrotti to pay the Board of Pharmacy the reasonable costs
23 of the investigation and enforcement of this case, pursuant to Business and Professions Code
24 section 125.3;
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3. Taking such other and further action as deemed necessary and proper.

DATED:

5/27/11



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

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