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

In the Matter of the Accusation Against:

Case No. 4316

OAH No. 2013070474

JAMIE LYNN VAILE
22053 Cyrstal Falls Drive, W.
Sonora, CA 95370
Pharmacy Technician Registration No. TCH
70591

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about June 10, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4316 against Jamie Lynn Vaile (Respondent) before the Board of Pharmacy.

(Accusation attached as Exhibit A.)

2. On or about July 15, 2006, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 70591 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4316 and expired on July 31, 2012. Pursuant to Business and Professions Code section 118(b), this

1 lapse in licensure does not deprive the Board of its authority to institute or continue this
2 disciplinary proceeding.

3 3. On or about June 18, 2013, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No. 4316, Statement to Respondent, Notice of Defense, Request for
5 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
6 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
7 is required to be reported and maintained with the Board. Respondent's address of record was
8 and is:

9 22053 Crystal Falls Drive, West
10 Sonora, CA 95370

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. On or about July 8, 2013, Respondent signed and returned a Notice of Defense,
15 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
16 address of record and it informed her that an administrative hearing in this matter was scheduled
17 for March 19, 2014. Respondent failed to appear at that hearing.

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

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

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

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

29 8. Pursuant to its authority under Government Code section 11520, the Board finds
30 Respondent is in default. The Board will take action without further hearing and, based on the
31 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board's offices regarding the allegations contained in Accusation No. 4316, finds that
3 the charges and allegations in Accusation No. 4316, are separately and severally, found to be true
4 and correct by clear and convincing evidence.

5 9. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$4,377.50 as of April 2, 2014.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Jamie Lynn Vaile has subjected
10 her Pharmacy Technician Registration No. TCH 70591 to discipline.

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
13 Registration based upon the following violations alleged in the Accusation which are supported
14 by the evidence contained in the Default Decision Evidence Packet in this case:

15 a. Respondent has subjected her license to discipline pursuant to Code section 4301,
16 subdivision (l), on the grounds of unprofessional conduct, in that Respondent was convicted of
17 crimes that are substantially related to the qualifications, functions, and duties of a pharmacy
18 technician, and pursuant to Code section 4301, subdivision (f), on the grounds of unprofessional
19 conduct, in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit,
20 or corruption, and has subjected her license to discipline pursuant to Code section 4301,
21 subdivision (j), on the grounds of unprofessional conduct, in that on or about September 14, 2010,
22 Respondent violated the statues of this State or any other state, or of the United States regulating
23 controlled substances and dangerous drugs when she attempted to order Hydrocodone without a
24 valid prescription.

25 b. On or about July 25, 2011, in the Superior Court of California, Country of Tuolumne,
26 in the matter entitled *The People of the State of California vs. Jamie Lynn Vaile*, Case Number
27 CRF34067, Respondent was convicted on her guilty plea of violating Health and Safety Code
28 section 11173 (a) (obtain controlled substance by fraud), Health and Safety Code section 11173

1 (a) (falsely assume title for the purpose of obtaining a controlled substance), and Penal Code
2 section 459 (second degree commercial burglary), all felonies.

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ORDER

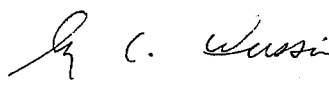
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 70591, heretofore issued to Respondent Jamie Lynn Vaile, is revoked.

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 22, 2014.

It is so ORDERED July 23, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

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DOJ Matter ID: SA2012106353

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 JANICE K. LANCHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
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1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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. 4316

12 **JAMIE LYNN VAILE**

13 22053 Crystal Fall Dr. W.
14 Sonora, California 95370

15 **Pharmacy Technician Registration No. TCH
70591**

ACCUSATION

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 July 15, 2006, the Board of Pharmacy (Board), Department of Consumer
23 Affairs, issued Pharmacy Technician Registration No. TCH 70591 to Jamie Lynn Vaile
24 (Respondent). The Pharmacy Technician Registration was in full force and effect at all times
25 relevant to the charges brought herein and will expire on July 31, 2014.

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1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy, Department of Consumer
3 Affairs, under the authority of the following laws. All sections references are to the Business and
4 Professions Code unless otherwise indicated.

5 STATUTORY PROVISIONS

6 4. Section 477 of the Code states:

7 As used in this division:

8 (a) "Board" includes "bureau," "commission," "committee,"
9 "department," "division," "examining committee," "program," and "agency:"

10 (b) "License" includes certificate, registration or other means of engage in
a business or profession regulated by this code.

11 5. Section 4301 states in relevant part, that:

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

15

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

18
19 (j) The violation of any of the statutes of this state, of any another, or of
the United States regulating controlled substances or dangerous drugs.

20

21 (l) The conviction of a crime substantially related to the qualifications,
22 functions, and duties of a licensee under this chapter. The record of conviction of a
violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
23 States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
24 evidence of unprofessional conduct. In all other cases, the record of conviction shall
be conclusive evidence only of the fact that the conviction occurred. The board may
25 inquire into the circumstances surrounding the commission of the crime, in order to
fix the degree of discipline or, in the case of a conviction not involving controlled
26 substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
27 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this provision. The
28 board may take action when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under
2 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
3 dismissing the accusation, information, or indictment.

3 **DRUG**

4 6. "Hydrocodone" (also know as Norco) is a Schedule III controlled substance
5 pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug
6 pursuant to Business and Professions Code section 4022.

7 **COST RECOVERY**

8 7. Code section 125.3 provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licensee found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Conviction of Crime)**

14 8. Respondent has subjected her license to discipline pursuant to Code section 4301,
15 subdivision (l), on the grounds of unprofessional conduct, in that Respondent was convicted of
16 crimes that are substantially related to the qualifications, functions, and duties of a pharmacy
17 technician, as follows:

18 9. On or about July 25, 2011, in the Superior Court of California, Country of Tuolumne,
19 in the matter entitled *The People of the State of California vs. Jamie Lynn Vaile*, Case Number
20 CRF34067, Respondent was convicted on her guilty plea of violating Health and Safety Code
21 section 11173 (a) (obtain controlled substance by fraud), Health and Safety Code section 11173
22 (a) (falsely assume title for the purpose of obtaining a controlled substance), and Penal Code
23 section 459 (second degree commercial burglary), all felonies. The circumstances of the crime are
24 as follow:

25 a. On or about September 14, 2010, Respondent attempted to commit prescription fraud.
26 Witness M.M. stated that Respondent called Sonora Regional Medical Center and identified
27 herself as "Margret" from Cedarwood Internal Medicine. Respondent, acting as "Margret",
28 ordered 90 tablets of Norco (Hydrocodone) for patient Jamie Vaile, with the instructions of one to

1 two pills to be taken every 4 to 6 hours for pain. Witness M.M. thought he recognized the voice
2 on the phone as Respondent's voice and confirm that the phone number in the ID caller match
3 Respondent's home phone number on record. Witness M.M. called Cedarwood International
4 Medicine and confirmed that no prescription was ordered for patient Jamie Vaile. Officer W.P.
5 was notified of the incident and contacted Respondent. Respondent admitted that she called in the
6 prescription pretending to be "Margret". Respondent stated she knew how to call in prescriptions
7 from her training at the pharmacy. Respondent claimed she called in the prescription because her
8 mother had been taking her prescription pills.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Act Involving Moral Turpitude)**

11 10. Respondent has subjected her license to discipline pursuant to Code section 4301,
12 subdivision (f), on the grounds of unprofessional conduct, in that on or about September 14, 2010,
13 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as
14 set forth in paragraph 9.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Violation of Statue Regulating Controlled Substance)**

17 11. Respondent has subjected her license to discipline pursuant to Code section 4301,
18 subdivision (j), on the grounds of unprofessional conduct, in that on or about September 14, 2010,
19 Respondent violated the statues of this State or any other state, or of the United States regulating
20 controlled substances and dangerous drugs when she attempted to order Hydrocodone without a
21 valid prescription, as set forth in paragraph 9.

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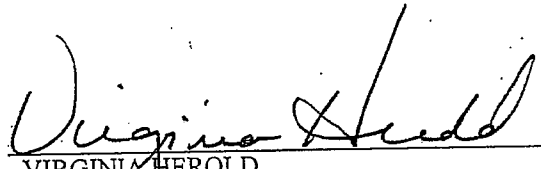
PRAYER

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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 70591, issued to Jamie Lynn Vaile;
2. Ordering Jamie Lynn Vaile 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: 6/10/13



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

SA2012106353