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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:

13 **VERONICA CUSIMANO**  
1233 S. Barry Ave., Apt. 103  
14 West Los Angeles, CA 90025

15 Pharmacy Technician Registration  
No. TCH 79524

16  
17 Respondent.

Case No. 4322

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

18  
19 **FINDINGS OF FACT**

20 1. On or about June 16, 2014, Complainant Virginia K. Herold, in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
22 Accusation No. 4322 against Veronica Cusimano (Respondent) before the Board of Pharmacy.  
23 (Accusation attached as Exhibit A.)

24 2. On or about November 14, 2007, the Board of Pharmacy (Board) issued Pharmacy  
25 Technician Registration No. TCH 79524 to Respondent. The Pharmacy Technician Registration  
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 4322,  
27 expired on December 31, 2014, and has not been renewed.  
28

1           3.     On or about July 10, 2014, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. 4322, Statement to Respondent, Notice of Defense, Request for  
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
5 is required to be reported and maintained with the Board. Respondent's address of record was  
6 and is: 1233 S. Barry Ave., Apt. 103, West Los Angeles, CA 90025.

7           4.     Service of the Accusation was effective as a matter of law under the provisions of  
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
9 124.

10          5.     On or about August 11, 2014, the aforementioned documents were returned by the  
11 U.S. Postal Service marked "Return to Sender – Unclaimed – Unable to Forward." The address  
12 on the documents was the same as the address on file with the Board. Respondent failed to  
13 maintain an updated address with the Board and the Board has made attempts to serve the  
14 Respondent at the address on file. Respondent has not made herself available for service and  
15 therefore, has not availed herself of her right to file a notice of defense and appear at hearing.

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

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

22          7.     Respondent failed to file a Notice of Defense within 15 days after service upon her of  
23 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4322.

24          8.     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.

          9.     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  
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. 4322, finds that  
3 the charges and allegations in Accusation No. 4322, are separately and severally, found to be true  
4 and correct by clear and convincing evidence.

5 10. 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 \$3,442,50 as of February 17, 2015.

### 8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Veronica Cusimano has  
10 subjected her Pharmacy Technician Registration No. TCH 79524 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) Business and Professions Code section 4301, subdivision (l) and 490, in conjunction  
16 with California Code of Regulations, title 16, section 1770, in that Respondent has been convicted  
17 of a crime substantially related to the qualifications, functions or duties of a pharmacy technician.  
18 On or about June 18, 1998, Respondent was convicted of one misdemeanor count of violating  
19 Penal Code section 415 [disturbing the peace] in the criminal proceeding entitled *The People of*  
20 *the State of California v. Veronica Cusimano* (Super. Ct. Los Angeles County, 1988, No.  
21 8BB0098).

22 (b) Business and Professions Code section 4301, subdivisions (j) and (o), for violating  
23 section 4060, in that Respondent was found to be in possession of a controlled substance without  
24 a valid prescription.

25 (c) Business and Professions Code section 4301, subdivisions (h) and (j), in that or on  
26 about February 1, 2011, Respondent used and/or was under the influence of a controlled  
27 substance.

1 (d) Business and Professions Code section 4301, subdivision (g), in that Respondent  
2 knowingly made a false statement of fact to the Board by failing to disclose her 1998 conviction  
3 case against her, on her initial application for licensure.

4 **ORDER**

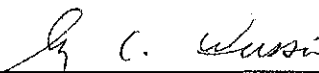
5 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 79524, heretofore  
6 issued to Respondent Veronica Cusimano, is revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
8 written motion requesting that the Decision be vacated and stating the grounds relied on within  
9 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
10 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

11 This Decision shall become effective on April 24, 2015.

12 It is so ORDERED March 25, 2015.

13 BOARD OF PHARMACY  
14 DEPARTMENT OF CONSUMER AFFAIRS  
15 STATE OF CALIFORNIA

16 By   
17 STAN C. WEISSER  
18 Board President

19  
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22  
23  
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26 DOJ Matter ID:LA2012506976

27  
28 Exhibit A: Accusation

# Exhibit A

## Accusation

1 KAMALA D. HARRIS  
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2 ARMANDO ZAMBRANO  
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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

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11 In the Matter of the Accusation Against:

Case No. 4322

12 **VERONICA CUSIMANO**  
1233 S. Barry Ave., Apt. 103  
13 West Los Angeles, CA 90025

**ACCUSATION**

14 Pharmacy Technician Registration  
15 No. TCH 79524

Respondent.

16

17 Complainant alleges:

18

**PARTIES**

19

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

21

2. On or about November 14, 2007, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician Registration No. TCH 79524 to Veronica Cusimano (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on December 31, 2012, unless renewed.

25

**JURISDICTION**

26

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

28

**STATUTORY PROVISIONS**

4. Section 118, subdivision (b) provides, in pertinent part that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

1 "This section shall not be construed to apply to any drug diversion program operated by any  
2 agency established under Division 2 (commencing with Section 500) of this code, or any  
3 initiative act referred to in that division."

4 7. Section 4300 provides in pertinent part, that every license issued by the Board is  
5 subject to discipline, including suspension or revocation.

6 8. Section 4301 states, in pertinent part:

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

13 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
14 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
15 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
16 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
17 practice authorized by the license.

18 . . . .

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

21 . . . .

22 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
23 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
24 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
25 substances or of a violation of the statutes of this state regulating controlled substances or  
26 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
27 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
28 The board may inquire into the circumstances surrounding the commission of the crime, in order



1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
5 of this provision. The board may take action when the time for appeal has elapsed, or the  
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
10 indictment.

11 . . . .

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

16 9. Section 4060 states, in pertinent part:

17 "No person shall possess any controlled substance, except that furnished to a person upon  
18 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
19 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
20 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
21 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
22 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
23 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052."

24 **REGULATORY PROVISIONS**

25 10. California Code of Regulations, title 16, section 1770 states, in pertinent part:

26 "For the purpose of denial, suspension, or revocation of a personal or facility license  
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
2 licensee or registrant to perform the functions authorized by his license or registration in a manner  
3 consistent with the public health, safety, or welfare."

4 **CONTROLLED SUBSTANCE**

5 11. "Marijuana," is a schedule I controlled substance as defined in Health and Safety  
6 Code section 11054, subdivision (d)(13) and is categorized a dangerous drug pursuant to section  
7 4022. "Phenobarbital," a barbiturate, is a Schedule IV controlled substance as defined by Health  
8 and Safety Code section 11057, subdivision (d)(26), and is categorized as a dangerous drug  
9 pursuant to section 4022.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Conviction of a Substantially Related Crime)**

12 12. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
13 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
14 Respondent has been convicted of a crime substantially related to the qualifications, functions or  
15 duties of a pharmacy technician. On or about June 18, 1998, after pleading guilty, Respondent  
16 was convicted of one misdemeanor count of violating Penal Code section 415 [disturbing the  
17 peace] in the criminal proceeding entitled *The People of the State of California v. Veronica*  
18 *Cusimano* (Super. Ct. Los Angeles County, 1988, No. BUR8BB0098). The Court placed  
19 Respondent on 2 years probation, with terms and conditions. The circumstances surrounding the  
20 conviction are that on or about June 9, 1998, Respondent was found to be disturbing another  
21 person by loud and unreasonable noise.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Illegal Possession of a Controlled Substance)**

24 13. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and  
25 (o), for violating section 4060, in that Respondent was found to be in possession of a controlled  
26 substance without a valid prescription. On or about February 1, 2011, during a narcotics  
27 investigation, by the Los Angeles Police Department, Respondent was contacted. She was  
28 observed to be standing in an alley, lighting a pipe, and smoking from it three times. When

1 approached, the undercover officers could smell the odor of burnt marijuana. When asked if she  
2 had anymore "weed", the Respondent stated, "No, just what I have in the bowl. You can have the  
3 rest." Once the officers identified themselves, Respondent indicated that she was a medical  
4 Marijuana patient but she did not have her license with her. She also indicated that she had more  
5 Marijuana in her purse. During a search of her purse, the officer found a pill container that  
6 contained 45 white pills resembling Phenobarital and another pill container with green leafy plant  
7 material, resembling Marijuana. The officer recovered the glass pipe that contained the burnt  
8 green leafy residue from Respondent's hand, and she was subsequently arrested for violating  
9 Health and Safety Code section 11377, subdivision (a) [possession of a controlled substance].

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Use/Under the Influence of a Controlled Substance)**

12 14. Respondent is subject to disciplinary action under section 4301, subdivision (h) and  
13 (j), in that or on about February 1, 2011, Respondent used and/or was under the influence of a  
14 controlled substance. Complainant refers to, and by this reference incorporates, the allegations  
15 set forth above in paragraph 13, as though set forth in fully.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Knowingly Made a False Statement of Fact to Licensing Authority)**

18 15. Respondent is subject to disciplinary action under section 4301, subdivision (g), in  
19 that Respondent knowingly made a false statement of fact to the Board by failing to disclose her  
20 1998 conviction case against her, on her initial application for licensure. Complainant refers to,  
21 and by this reference incorporates, the allegations set forth above in paragraph 12, as though set  
22 forth fully.

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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 Registration No. TCH 79524, 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: 6/16/14



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

LA2012506976