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

In the Matter of the Accusation Against:

JOSE LUIS CORNELIO
5501 Lavinia Ave.
Lynwood, CA 90262

Pharmacy Technician Registration No. TCH
115350

Respondent.

Case No. 4504

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 12, 2013, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4504 against Jose Luis Cornelio (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about October 17, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 115350 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4504 and will expire on September 30, 2013, unless renewed.

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1 3. On or about July 22, 2013, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 4504, 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:

7 5501 Lavinia Ave.
8 Lynwood, CA 90262.

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

12 5. Government Code section 11506 states, in pertinent part:

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

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
20 4504.

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

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

26 8. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 4504, finds that

1 the charges and allegations in Accusation No. 4504, are separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$3,075.00 as of August 23, 2013.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Jose Luis Cornelio has subjected
8 his Pharmacy Technician Registration No. TCH 115350 to discipline.

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

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7 *Attorneys for Complainant*

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. 4504

13 **JOSE LUIS CORNELIO**
5501 Lavinia Ave.
Lynwood, CA 90262

ACCUSATION

14 Pharmacy Technician Registration No. TCH
15 115350

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia K. Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the California State Board of Pharmacy.

21 2. On or about October 17, 2011, the Board of Pharmacy issued Pharmacy Technician
22 Registration No. TCH 115350 to Jose Luis Cornelio (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on September 30, 2013, 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.

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STATUTORY PROVISIONS

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

5 5. Section 492 states:

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

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

17 6. Section 4060 states:

18 "No person shall possess any controlled substance, except that furnished to a person upon
19 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
20 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
21 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
22 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
23 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the
24 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,
25 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-
26 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled
27 with the name and address of the supplier or producer."

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1 a. On or about April 1, 2012, Respondent admittedly was in possession of Cocaine, a
2 controlled substance and dangerous drug.

3 b. Subsequently, on or about April 23, 2012, after pleading guilty, Respondent was
4 placed on Deferred Entry of Judgment for 18 months for violating Health and Safety Code
5 section 11350, subdivision (a) [possession of a controlled substance] in the criminal proceedings
6 entitled *The People of the State of California vs. Jose Luis Corenelio* (Super. Ct. Los Angeles
7 County, 2012, No. TA122788).

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Violation of a Health and Safety Statute)**


10 11. Respondent is subject to disciplinary action under section 4301, subdivision (j), on
11 the grounds of unprofessional conduct, in that on or about April 1, 2012, Respondent violated
12 Health and Safety Code 11350, subdivision (a). Complainant refers to, and by this reference
13 incorporates, the allegations set forth above in paragraph 10, subparagraphs (a) and (b), inclusive,
14 as though set forth fully.

15 **PRAYER**

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

- 18 1. Revoking or suspending Pharmacy Technician Registration No. TCH 115350, issued
19 to Jose Luis Cornelio;
- 20 2. Ordering Jose Luis Cornelio to pay the Board the reasonable costs of the investigation
21 and enforcement of this case, pursuant to section 125.3; and
- 22 3. Taking such other and further action as deemed necessary and proper.

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25 DATED: 7/12/13


26 VIRGINIA K. HEROLD
27 Executive Officer
28 California State Board of Pharmacy
State of California
Complainant

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