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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. 4700

**BRIAN MATTHEW HUDSON
711 West Lincoln #15
Escondido, CA 92026**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Pharmacy Technician Registration No. 115444

Respondent.

FINDINGS OF FACT

1. On December 6, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4700 against Brian Matthew Hudson (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On October 10, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. 115444 to Respondent. The Pharmacy Technician Registration expired on November 30, 2012, and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 4300.1 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

3. On January 2, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4700, Statement to Respondent, 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 section

1 4100, is required to be reported and maintained with the Board. Respondent's address of record
2 was and is 711 West Lincoln #15, Escondido, CA 92026.

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 Business & Professions Code section 124.

5 5. On January 14, 2014, the aforementioned documents were returned by the U.S.
6 Postal Service marked "Return to Sender Unable to Forward." The address on the documents
7 was the same as the address on file with the Board. Respondent failed to maintain an updated
8 address with the Board and the Board has made attempts to serve the Respondent at the address
9 on file. Respondent has not made himself available for service and therefore, has not availed
10 himself of his right to file a notice of defense and appear at hearing.

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon
18 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation
19 No. 4700.

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

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

25 9. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 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. 4700, finds that
the charges and allegations in Accusation No. 4700, are separately and severally, found to be true
and correct by clear and convincing evidence.

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ORDER

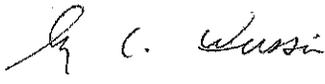
IT IS SO ORDERED that Pharmacy Technician Registration No. 115444, heretofore issued to Respondent Brian Matthew Hudson, is revoked.

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 7, 2014.

It is so ORDERED ON March 6, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

70818267.DOC
DOJ Matter ID:SD2013806074

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Supervising Deputy Attorney General
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7 Facsimile: (619) 645-2061
Attorneys for Complainant
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10 **BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

11
12 In the Matter of the Accusation Against:

Case No. 4700

13 **BRIAN MATTHEW HUDSON**
711 West Lincoln #15
14 Escondido, CA 92026

A C C U S A T I O N

15 **Pharmacy Technician Registration No. 115444**

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

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

22 2. On October 10, 2011, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number 115444 to Brian Matthew Hudson (Respondent). The Pharmacy
24 Technician Registration expired on November 30, 2012, and has not been renewed.

25 **JURISDICTION**

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

1 4. Section 4300, subdivision (a), of the Code states that every license issued may be
2 suspended or revoked.

3 5. Section 4300.1 of the Code states:

4 The expiration, cancellation, forfeiture, or suspension of a board-issued
5 license by operation of law or by order or decision of the board or a court of law,
6 the placement of a license on a retired status, or the voluntary surrender of a
7 license by a licensee shall not deprive the board of jurisdiction to commence or
8 proceed with any investigation of, or action or disciplinary proceeding against, the
9 licensee or to render a decision suspending or revoking the license.

8 **STATUTORY PROVISIONS**

9 6. Section 490 of the Code provides, in pertinent part, that a board may suspend or
10 revoke a license on the ground that the licensee has been convicted of a crime substantially
11 related to the qualifications, functions, or duties of the business or profession for which the
12 license was issued.

13 7. Section 493 of the Code states:

14 Notwithstanding any other provision of law, in a proceeding conducted by
15 a board within the department pursuant to law to deny an application for a license
16 or to suspend or revoke a license or otherwise take disciplinary action against a
17 person who holds a license, upon the ground that the applicant or the licensee has
18 been convicted of a crime substantially related to the qualifications, functions, and
19 duties of the licensee in question, the record of conviction of the crime shall be
20 conclusive evidence of the fact that the conviction occurred, but only of that fact,
21 and the board may inquire into the circumstances surrounding the commission of
22 the crime in order to fix the degree of discipline or to determine if the conviction
23 is substantially related to the qualifications, functions, and duties of the licensee in
24 question.

25 As used in this section, 'license' includes 'certificate,' 'permit,'
26 'authority,' and 'registration.'

27 8. Section 4301 of the Code states:

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

(a) Gross immorality.

....

(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 a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

1 Business and Professions Code, a crime or act shall be considered substantially
2 related to the qualifications, functions or duties of a licensee or registrant if to a
3 substantial degree it evidences present or potential unfitness of a licensee or
4 registrant to perform the functions authorized by his license or registration in a
5 manner consistent with the public health, safety, or welfare.

6 COST RECOVERY

7 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request
8 the administrative law judge to direct a licentiate found to have committed a violation or
9 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
10 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
11 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
12 may be included in a stipulated settlement.

13 FIRST CAUSE FOR DISCIPLINE

14 (Mar. 27, 2013 Conviction for Attempted Oral Copulation With a Minor On Sep. 5, 2012)

15 12. Respondent subjected his registration to discipline under Code sections 490 and
16 4301, subdivision (l) in that Respondent was convicted of a crime that is substantially related to
17 the qualifications, functions, and duties of a registered pharmacy technician. The circumstances
18 are as follows:

19 a. On March 27, 2013, in a criminal proceeding entitled *The People of the*
20 *State of California vs. Brian M. Hudson*, in San Diego County Superior Court, North County
21 Division, North County Regional Center Case Number SCN309789, Respondent was convicted
22 on his plea of guilty to violating Penal Code (PC) sections 664 and 288, subdivisions (a) and
23 (b)(1), attempted oral copulation by a person over 21 years old with a minor under 18 years old,
24 a felony. On January 9, 2013, when the charge for violation of PC sections 664 and 288,
25 subdivisions (a) and (b)(2) was added, a felony charge for violation of PC section 288.2,
26 subdivision (a), harmful matter sent with intent of seduction of minor, was dismissed. Charges
27 for violation of PC sections 288.3, subdivision (a), contact of minor with intent to commit a
28 sexual act, and 288.4, subdivision (b), attending an arranged illicit meeting with a minor,
felonies, were dismissed pursuant to a plea bargain.

1 minor and purpose of arousing, appealing to and gratifying the lust, passions, and sexual desires
2 of Respondent and of the minor, as detailed in paragraph 12, above.

3 **PRAYER**

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

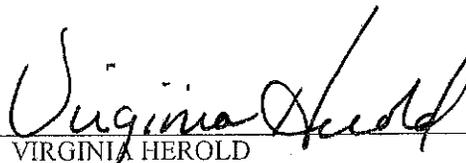
6 1. Revoking or suspending Pharmacy Technician Registration Number 115444,
7 issued to Brian Matthew Hudson;

8 2. Ordering Brian Matthew Hudson to pay the Board of Pharmacy the reasonable
9 costs of the investigation and enforcement of this case, pursuant to Business and Professions
10 Code section 125.3;

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

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15 DATED: _____

12/6/13



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

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