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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:

Case No. 4992

13
14 **JERYLL ANN REYES SAUL**
15 **4061 W 138th Street, Apt. 25**
16 **Hawthorne, CA 90266**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

17 **Pharmacy Technician Registration No. TCH**
18 **95346**

19 Respondent.

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21 **FINDINGS OF FACT**

22 1. On or about April 24, 2015, Complainant Virginia K. Herold, in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
24 Accusation No. 4992 against Jeryll Ann Reyes Saul (Respondent) before the Board of Pharmacy.
25 (Accusation attached as Exhibit A.)

26 2. On or about October 27, 2009, the Board of Pharmacy (Board) issued Pharmacy
27 Technician Registration No. TCH 95346 to Respondent. The Pharmacy Technician Registration
28 was in full force and effect at all times relevant to the charges brought in Accusation No. 4992

1 and expired on May 31, 2015, and has not been renewed. This lapse in licensure, however,
2 pursuant to Business and Professions Code section 118(b) does not deprive the Board of its
3 authority to institute or continue this disciplinary proceeding.

4 3. On or about June 2, 2015, Respondent was served by Certified and First Class Mail
5 copies of the Accusation No. 4992, Statement to Respondent, Notice of Defense, Request for
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
7 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
8 is required to be reported and maintained with the Board. Respondent's address of record was
9 and is:

10 4061 W 138th Street, Apt. 25
11 Hawthorne, CA 90266.

12 4. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
14 124.

15 5. On or about June 15, 2015, the aforementioned documents were returned by the U.S.
16 Postal Service marked "Return to Sender, Unable to Forward." The address on the documents
17 was the same as the address on file with the Board. Respondent failed to maintain an updated
18 address with the Board and the Board has made attempts to serve the Respondent at the address
19 on file. Respondent has not made herself available for service and therefore, has not availed
20 herself of her right to file a notice of defense and appear at hearing.

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

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

25 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
26 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4992.

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

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

6 9. Pursuant to its authority under Government Code section 11520, the Board finds
7 Respondent is in default. The Board will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the Board's offices regarding the allegations contained in Accusation No. 4992, finds that
11 the charges and allegations in Accusation No. 4992, are separately and severally, found to be true
12 and correct by clear and convincing evidence.

13 10. Taking official notice of its own internal records, pursuant to Business and
14 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
15 and Enforcement is \$2222.50 as of June 16, 2015.

15 DETERMINATION OF ISSUES

16 1. Based on the foregoing findings of fact, Respondent Jeryll Ann Reyes Saul has
17 subjected her Pharmacy Technician Registration No. TCH 95346 to discipline.

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

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

22 a. Business & Professions Code sections 4300 and 4301(l), and California Code of
23 Regulations, title 16, section 1770 (Conviction of a Substantially Related Crime: Penal Code
24 section 484(a) [theft], a misdemeanor);

25 b. Business & Professions Code 4300, 4301 (j) and/or (o), 4059 and 4060 (Unlawful
26 Possession of Controlled Substances/Dangerous Drugs); and,

27 c. Business & Professions Code sections 4300 and 4301(f) (Acts Involving Moral
28 Turpitude, Dishonesty, Fraud, Deceit, or Corruption).

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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 21, 2015.

It is so ORDERED July 22, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

Azhar Fortiz

By

AMARYLIS GUTIERREZ
Board President

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Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(JERYLL ANN REYES SAUL)

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 NANCY A. KAISER
Deputy Attorney General
4 State Bar No. 192083
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-5794
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4992

13 **JERYLL ANN REYES SAUL**
4061 W. 138th Street #25
14 Hawthorne, CA 95346

A C C U S A T I O N

15 Pharmacy Technician Registration No. TCH 95346

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 (Board).
22 2. On or about October 27, 2009, the Board issued Pharmacy Technician Registration
23 No. TCH 95346 to Jeryll Ann Reyes Saul (Respondent). The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 May 31, 2015, unless renewed.

26 **JURISDICTION**

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

STATUTORY PROVISIONS

4. Section 4059, subdivision (a), states:

"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."

5. Section 4060 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, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, 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.

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

6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or revoked."

7. Section 4300.1 states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board

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1 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
2 proceeding against, the licensee or to render a decision suspending or revoking the license."

3 8. Section 4301 states, in pertinent part:

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

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

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

14

15 "(l) The conviction of a crime substantially related to the qualifications, functions, and
16 duties of a licensee under this chapter. . . .

17

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

22 **REGULATORY PROVISION**

23 9. California Code of Regulations, title 16, section 1770 states:

24 "For the purpose of denial, suspension, or revocation of a personal or facility license
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
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licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

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

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

11. Amoxicillin is categorized as a dangerous drug pursuant to section 4022.

12. Hydrocodone, with trade names of Lortab, Norco and Vicodin, is a Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)(4), and is categorized as dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

13. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent committed a substantially related crime, as follows:

a. On or about October 27, 2014, after pleading nolo contendere, Respondent was convicted of one interlineated misdemeanor count violating Penal Code section 484(a) [theft] in the criminal proceeding entitled *The People of the State of California v. Jeryll Ann Saul* (Super. Ct. L.A. County, 2014, No. 4SY04355). The Court sentenced Respondent to one day in jail, placed her on three years probation, and ordered her to stay out of all Walgreens.

b. The circumstances underlying the conviction are that on or about September 5, 2013, while working as an employee of Walgreens as a pharmacy technician, Respondent admittedly

1 stole 20 \$25 Walgreens gift cards (\$500), approximately five 500 pill bottles of Hydrocodone
2 (2,500 pills), and approximately 20 pills of Amoxicillin.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unlawful Possession of Controlled Substances/Dangerous Drugs)**

5 14. Respondent is subject to disciplinary action under section 4300, 4301, subdivision (j)
6 and / or (o), on the grounds of unprofessional conduct, for violating sections 4059 and 4060, in
7 that on or about and before September 5, 2013, Respondent admitted to taking Hydrocodone and
8 Amoxicillin, without valid prescriptions. Complainant refers to and by this reference incorporates
9 the allegations set forth above in paragraph 13, subparagraphs (a) and (b), inclusive, as though set
10 forth fully.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

13 15. Respondent is subject to disciplinary action under sections 4300 ad 4301,
14 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
15 involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by
16 this reference incorporates the allegations set forth above in paragraphs 13 through 14, inclusive,
17 as though set forth fully.

18 **PRAYER**

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

21 1. Revoking or suspending Pharmacy Technician Registration No. TCH 95346, issued to
22 Jeryll Ann Reyes Saul;

23 2. Ordering Jeryll Ann Reyes Saul to pay the Board the reasonable costs of the
24 investigation and enforcement of this case, pursuant to section 125.3; and

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

DATED: _____

4/24/15

Virginia Herold

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

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