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

In the Matter of the Accusation Against:
SUZANNE M. DRISCOLL
1043 Lakeville Circle
Petaluma, CA 94954
Pharmacy Technician Registration No. TCH
26598
Respondent.

Case No. 5022

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 8, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5022 against Suzanne M. Driscoll (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 31, 1998, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 26598 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5022 and will expire on May 31, 2016, unless renewed.

3. On or about May 13, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5022, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
2 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
3 is required to be reported and maintained with the Board. Respondent's address of record was
4 and is: 1043 Lakeville Circle, Petaluma, CA, 94954.

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

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

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

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5022.

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

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 5022, finds that
26 the charges and allegations in Accusation No. 5022, are separately and severally, found to be true
27 and correct by clear and convincing evidence.

28 9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$1,230.00 as of the date of this Order.

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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Suzanne M. Driscoll has
3 subjected her Pharmacy Technician Registration No. TCH 26598 to discipline.

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

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6 Registration based upon the violations alleged in the Accusation, which are supported by the
7 evidence contained in the Default Decision Evidence Packet in this case.

8 **ORDER**

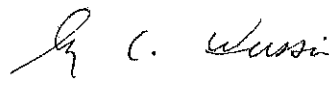
9 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 26598, heretofore
10 issued to Respondent Suzanne M. Driscoll, is revoked.

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

15 This Decision shall become effective on September 10, 2014.

16 It is so ORDERED August 11, 2014.

17 BOARD OF PHARMACY
18 DEPARTMENT OF CONSUMER AFFAIRS
19 STATE OF CALIFORNIA

20 By 

21 STAN C. WEISSER
22 Board President

23 Attachment:

24 Exhibit A, Accusation No. 5022
25
26
27
28

Exhibit A

Accusation No. 5022

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
4 State Bar No. 141461
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 5022

11 **SUZANNE M. DRISCOLL**
12 **921 E. Blithedale C.**
13 **Mill Valley, CA 94941**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
26598

15 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 July 31, 1998, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 26598 to Suzanne M. Driscoll (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 May 31, 2014, unless 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 unless otherwise indicated.

1 4. Section **4011** of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section **4300** of the Code provides that every license issued by the Board may be
5 suspended or revoked.

6 6. Section **4300.1** of the Code states:

7 (a) If a pharmacist possesses a license or is otherwise authorized to practice pharmacy in
8 any other state or by an agency of the federal government, and that license or authority is
9 suspended or revoked, the pharmacist's license shall be suspended automatically for the duration
10 of the suspension or revocation, unless terminated or rescinded as provided in subdivision (c).
11 The board shall notify the pharmacist of the license suspension and of his or her right to have the
12 issue of penalty heard as provided in this section.

13 (b) Upon its own motion or for good cause shown, the board may decline to impose or may
14 set aside the suspension when it appears to be in the interest of justice to do so, with due regard to
15 maintaining the integrity of and confidence in the pharmacy profession.

16 (c) The issue of penalty shall be heard by an administrative law judge sitting alone, by a
17 committee of the board sitting with an administrative law judge, or by the board sitting with an
18 administrative law judge, at the board's discretion. A pharmacist may request a hearing on the
19 penalty and that hearing shall be held within 90 days from the date of the request. If the order
20 suspending or revoking the pharmacist's license or authority to practice pharmacy is overturned
21 on appeal, any discipline ordered pursuant to this section shall automatically cease. Upon the
22 showing to the administrative law judge, board, or committee of the board by the pharmacist that
23 the out-of-state action is not a basis for discipline in California, the suspension shall be rescinded.

24 If an accusation for permanent discipline is not filed within 90 days of the suspension
25 imposed pursuant to this section, the suspension shall automatically terminate.

26 (d) The record of the proceedings that resulted in the suspension or revocation of the
27 pharmacist's license or authority to practice pharmacy, including a transcript of the testimony
28 therein, may be received in evidence.

1 (e) If a summary suspension has been issued pursuant to this section, the pharmacist may
2 request that the hearing on the penalty conducted pursuant to subdivision (c) be held at the same
3 time as a hearing on the accusation.

4 **STATUTORY AND REGULATORY PROVISIONS**

5 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
6 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
7 not be limited to, any of the following:

8 ...

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

14 ...

15 8. California Code of Regulations, title 16, section 1770, states:

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

22 **COST RECOVERY**

23 9. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

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1 CAUSE FOR DISCIPLINE

2 (Dangerous Use of Drugs and/or Alcohol)

3 10. Respondent is subject to disciplinary action under Code section 4301, subsection (h),
4 in that she administered to herself, or used, controlled substances and/or alcoholic beverages to
5 the extent or in a manner as to be dangerous or injurious to herself, to a person holding a license
6 under this chapter, or to any other person or to the public, and/or to the extent that the use
7 impaired the her ability to conduct with safety to the public the practice authorized by her license,
8 as follows:

9 11. On or about June 3, 2013, in Petaluma, California, police officers went to
10 Respondent's home in response to a 911 call. Respondent's spouse/cohabitant had made the 911
11 call to report an argument or altercation between himself and Respondent. He reported that
12 Respondent was intoxicated by alcohol and prescription medications. The officers observed
13 objective indications that Respondent was intoxicated by alcohol and/or drugs, and noted that
14 Respondent had a difficult time answering simple questions. A chemical test of Respondent's
15 breath revealed a breath alcohol level of .218%.

16 12. On or about August 2, 2013, in Petaluma, California, police officers went to
17 Respondent's home in response to a report of a verbal disturbance. The officers observed
18 Respondent in the office of her apartment building manager. Respondent was engaged in a loud
19 verbal argument with the apartment building manager. The officers observed objective
20 indications that Respondent was intoxicated by alcohol and/or drugs. Respondent's
21 spouse/cohabitant informed the officers that Respondent had been drinking alcohol and had also
22 ingested prescription medications. The officers arrested Respondent for violation of Penal Code
23 section 647(f) (public intoxication). A subsequent test of Respondent's breath revealed a breath
24 alcohol level of .16%.

25 13. On or about August 31, 2013, in Petaluma, California, police officers went to
26 Respondent's home in response to a report of a domestic dispute. The officers observed objective
27 indications that Respondent was intoxicated by alcohol and/or drugs. Respondent's
28 spouse/cohabitant informed the officers that Respondent was intoxicated from drinking alcohol

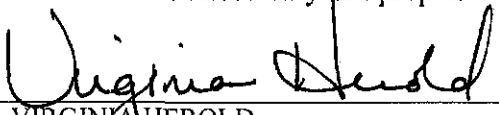
1 and taking "pills," and that Respondent had been threatening to him and to the couple's children.
2 The officers arrested Respondent for having committed battery on Respondent's
3 spouse/cohabitant.

4 PRAYER

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

- 7 1. Revoking or suspending Pharmacy Technician Registration Number TCH 26598,
8 issued to Suzanne M. Driscoll;
- 9 2. Ordering Suzanne M. Driscoll to pay the Board of Pharmacy the reasonable costs of
10 the investigation and enforcement of this case, pursuant to Business and Professions Code section
11 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: 4/8/14



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

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