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

In the Matter of the Accusation Against:
JEFFREY SEAN MORRIS
41495 Timber Creek Terrace
Fremont, CA 94539
Pharmacy Technician License No. TCH 103171
Respondent.

Case No. 5256

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 17, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5256 against Jeffrey Sean Morris (Respondent) before the Board of Pharmacy. (A copy of the Accusation is attached as exhibit A.)
2. On or about June 22, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 103171 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 5256 and will expire on June 30, 2016, unless renewed.
3. On or about November 4, 2014, Respondent was served by Certified and First Class Mail with copies of: Accusation No. 5255; a Statement to Respondent; a Notice of Defense (2 copies); a Request for Discovery; and the text of the Discovery Statutes (Government Code

1 sections 11507.5, 11507.6, and 11507.7), at Respondent's address of record which was and is:
2 41495 Timber Creek Terrace, Fremont, CA 94539.

3 4. Pursuant to Business and Professions Code section 136 and/or 4100, and/or California
4 Code of Regulations, title 16, section 1704, Respondent's address of record, and any changes
5 thereto, are required to be reported and maintained with the Board.

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

8 6. 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 7. Respondent failed to file a Notice of Defense within 15 days after service of the
15 Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 5256.

16 8. 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 9. 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. 5256, finds that
26 the charges and allegations in Accusation No. 5256, are separately and severally, found to be true
27 and correct by clear and convincing evidence.

28 10. 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 \$1,570.00 as of March 24, 2015.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Jeffrey Sean Morris has
3 subjected his Pharmacy Technician License No. TCH 103171 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 License based upon the following violations alleged in the Accusation which are supported by the
7 evidence contained in the Default Decision Evidence Packet in this case.:

8 a. Respondent's License is subject to revocation pursuant to Business and Professions
9 Code section(s) 4301(l) and/or 490, by reference to California Code of Regulations, title 16,
10 section 1770, for the conviction of substantially related crime(s), in that on or about May 5, 2014,
11 in the criminal case *People v. Jeffrey Sean Morris*, Case No. 252950 in Alameda County Superior
12 Court, Respondent was convicted of two counts of violating Penal Code section 415, subdivision
13 (2) (Disturbing by Loud and Unreasonable Noise), both misdemeanors.

14 b. Respondent's License is subject to revocation pursuant to Business and Professions
15 Code section 4301(h) for self-administration of a controlled substance, in that on February 24
16 and/or 26, 2014, during the police contacts leading to arrests and to the prosecution identified
17 above, Respondent admitted to use of **methamphetamine**.

18 c. Respondent's License is subject to revocation pursuant to Business and Professions
19 Code section 4301(k) in that, as stated above, he was convicted of more than one misdemeanor
20 involving the use or consumption of an alcoholic beverage or a dangerous drug.

21 e. Respondent's License is subject to revocation pursuant to Business and Professions
22 Code section 4301, in that Respondent, as stated above, engaged in unprofessional conduct.

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ORDER

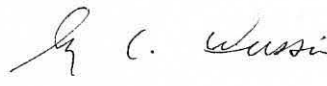
IT IS SO ORDERED that Pharmacy Technician License No. TCH 103171, heretofore issued to Respondent Jeffrey Sean Morris, is revoked.

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 May 22, 2015.

It is so ORDERED on April 22, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

STAN C. WEISSER
Board President

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DOJ Matter ID:SF2014409390

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
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5 San Francisco, CA 94102-7004
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Attorneys for Complainant

7
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. 5256

13 **JEFFREY SEAN MORRIS**
14 **41495 Timber Creek Terrace**
15 **Fremont, CA 94539**

A C C U S A T I O N

16 **Pharmacy Technician License No. TCH 103171**

Respondent.

17 Complainant alleges:

PARTIES

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

20 2. On or about June 22, 2010, the Board of Pharmacy issued Pharmacy Technician
21 License No. TCH 103171 to Jeffrey Sean Morris (Respondent). The License was in full force and
22 effect at all times relevant to the charges herein and will expire on June 30, 2016, unless renewed.

23
24 JURISDICTION

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

28 ///

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(a) 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 provides that the expiration, cancellation, forfeiture, or
7 suspension of a Board-issued license, the placement of a license on a retired status, or the
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
10 licensee or to render a decision suspending or revoking the license.

11
12 STATUTORY AND REGULATORY PROVISIONS

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

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

21 (k) The conviction of more than one misdemeanor or any felony involving the use,
22 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
23 combination of those substances.

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

26 8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
27 revoke a license when it finds that the licensee has been convicted of a crime substantially related
28 to the qualifications, functions or duties of the license.

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

2 “For the purpose of denial, suspension, or revocation of a personal or facility license
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
6 licensee or registrant to perform the functions authorized by her license or registration in a manner
7 consistent with the public health, safety, or welfare.”

8 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation of the licensing
10 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

11
12 FIRST CAUSE FOR DISCIPLINE

13 (Conviction of Substantially Related Crime(s))

14 11. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
15 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
16 substantially related crime(s), in that on or about May 5, 2014, in the criminal case *People v.*
17 *Jeffrey Sean Morris*, Case No. 252950 in Alameda County Superior Court, Respondent was
18 convicted of two counts of violating Penal Code section 415, subdivision (2) (Disturbing by Loud
19 and Unreasonable Noise), both misdemeanors. The conviction was entered as follows:

20 a. On or about February 24, 2014, at approximately 10:46 p.m., Fremont Police
21 responded to a call made by Respondent’s neighbor, who reported that Respondent was standing
22 in front of his garage/driveway with his hands up, appeared to be intoxicated, and refused to move
23 out of the way for the neighbor to drive into his garage. The neighbor was concerned for his own
24 and Respondent’s safety. Respondent admitted to the responding officer(s) that he had snorted
25 crystal **methamphetamine** three to four hours ago, and that he had snorted **methamphetamine**
26 multiple times over the past few days. The officer(s) observed symptoms of Respondent being
27 under the influence of a central nervous system stimulant. He was placed under arrest.

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1 b. On or about February 26, 2014, at approximately 3:55 a.m., Fremont Police
2 responded to a call made by Respondent, who reported that there were 4 to 5 males in white
3 camouflage behind his house threatening him because he ruined their "Air Bender" game. The
4 responding officer(s) made contact with Respondent, and immediately noticed that he was
5 exhibiting symptoms of being under a central nervous system stimulant. Respondent admitted to
6 snorting crystal **methamphetamine** a few hours earlier, and admitted to still feeling the effects of
7 the drug. Respondent admitted to being a frequent user of **methamphetamine**, and to having
8 been addicted to the drug for four (4) years. Respondent failed an evaluation to determine if he
9 was under the influence. He was placed under arrest.

10 c. Respondent was subsequently charged, in *People v. Jeffrey Sean Morris*, Case
11 No. 252950 in Alameda County Superior Court, with two counts of violating Health and Safety
12 Code section 11550, subdivision (a) (Use/Being Under the Influence of Controlled Substance),
13 both misdemeanors. On or about May 5, 2014, Respondent pleaded to and was found guilty of
14 two counts of violating Penal Code section 415, subdivision (2) (Disturbing by Loud and
15 Unreasonable Noise), both misdemeanors. Respondent was given a conditional sentence of three
16 (3) years probation on terms and conditions including time served of 2 days, random drug testing,
17 reimbursement of Public Defender fees, and payment of other fines and fees.

18
19 SECOND CAUSE FOR DISCIPLINE

20 (Self-Administration of Controlled Substance)

21 12. Respondent is subject to discipline under section 4301(h) of the Code, in that as
22 described in paragraph 11, Respondent self-administered a controlled substance.

23
24 THIRD CAUSE FOR DISCIPLINE

25 (Conviction of Alcohol or Drug-Involved Crimes)

26 13. Respondent is subject to discipline under section 4301(k) of the Code, in that, as
27 described in paragraph 11 above, Respondent was convicted of more than one misdemeanor
28 involving the use or consumption of an alcoholic beverage or a dangerous drug.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 14. Respondent is subject to discipline under section 4301 of the Code in that, as
4 described in paragraphs 11-13 above, Respondent engaged in unprofessional conduct.

5
6 DISCIPLINE CONSIDERATIONS

7 15. To determine the appropriate level of discipline, if any, to be imposed on Respondent,
8 Complainant further alleges the following:

9 a. On or about July 26, 2006, in Case No. 120938 in Alameda County Superior
10 Court, Respondent was convicted of violating Vehicle Code section 23152, subdivision (a)
11 (Driving Under the Influence of Alcohol/Drugs), a misdemeanor.

12 b. On or about May 11, 2009, in Case No. 225294 in Alameda County Superior
13 Court, Respondent was convicted of violating Vehicle Code section 12500, subdivision (a)
14 (Driving Without Valid License), a misdemeanor.

15
16 PRAYER

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

19 1. Revoking or suspending Pharmacy Technician License No. TCH 103171, issued to
20 Jeffrey Sean Morris (Respondent);

21 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
22 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

24 DATED: 10/17/14

25 
26 VIRGINIA HEROLD
27 Executive Officer
28 Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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