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

In the Matter of the Accusation Against:
JESUS VILLANUEVA JR.
5274 East Niland Street
Lynwood, CA 90262
**Original Pharmacy Technician Registration
No. TCH 105065.**

Respondent.

Case No. 5265

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 19, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5265 against Jesus Villanueva Jr. ("Respondent") before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 23, 2010, the Board of Pharmacy ("Board") issued Pharmacy Technician Registration No. TCH 105065 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5265 and will expire on November 30, 2015, unless renewed.

1 3. On or about February 13, 2015, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 5265, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is:

7 5274 East Niland Street
8 Lynwood, CA 90262.

9 4. On or about February 13, 2015, a courtesy copy of the documents identified in
10 paragraph 3 were also served on Respondent's previous criminal counsel Paul Takakjian at 11845
11 West Olympic Boulevard, Suite 1000, Los Angeles, CA 90064.

12 5. 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 6. On or about February 17, 2015, a certified mailing receipt was signed and returned to
16 the Attorney General's Office indicating that the Accusation was successfully delivered to
17 Respondent's address of record.

18 7. Government Code section 11506 states, in pertinent part:

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

24 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
26 5265.

27 9. California Government Code section 11520 states, in pertinent part:

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

1 10. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
5 file at the Board's offices regarding the allegations contained in Accusation No. 5265, finds that
6 the charges and allegations in Accusation No. 5265, are separately and severally, found to be true
7 and correct by clear and convincing evidence.

8 11. Taking official notice of its own internal records, pursuant to Business and
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
10 and Enforcement are \$970.00 as of April 22, 2015.

11 **DETERMINATION OF ISSUES**

12 1. Based on the foregoing findings of fact, Respondent Jesus Villanueva Jr. has
13 subjected his Pharmacy Technician Registration No. TCH 105065 to discipline.

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

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

18 a. Respondent is subject to disciplinary action under section 4301, subdivision (I), in
19 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
20 convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy
21 technician, which to a substantial degree evidences his present or potential unfitness to practice in
22 a manner consistent with the public health, safety, or welfare.

23 b. On or about November 18, 2014, after pleading nolo contendere, Respondent was
24 convicted of one felony count of violating Penal Code section 288a, subdivision (b)(2) [oral
25 copulation of a minor under 16 years of age by someone over 21 years of age], in the criminal
26 proceeding entitled *The People of the State of California v. Jesus Villanueva Jr.* (Super Ct. Los
27 Angeles County, 2014, No. VA134916).

28

1 c. The circumstances underlying Respondent's November 18, 2014, conviction are that
2 on or about February 9, 2014, Respondent drove to the house of V1's grandparents. At
3 approximately midnight, V1, who was twelve (12) years old, went outside to Respondent's
4 vehicle. Respondent then sucked on V1's breast and V1 performed oral copulation on him.
5 Upon questioning by police officers, Respondent stated that after he ejaculated in V1's mouth, he
6 left because he thought V1 was acting weird. The conduct is described with additional specificity
7 in Accusation No. 5265, hereby incorporated by reference.

8 d. Respondent is subject to disciplinary action under section 4301 and section 4301,
9 subdivision (f), in that Respondent committed unprofessional conduct and an act of moral
10 turpitude by engaging in sexual conduct with a minor twelve years of age. The conduct is
11 described with additional specificity in Accusation No. 5265, hereby incorporated by reference.

12 **ORDER**

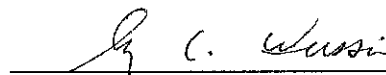
13 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 105065, heretofore
14 issued to Respondent Jesus Villanueva Jr., is revoked.

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

19 This Decision shall become effective on June 19, 2015.

20 It is so ORDERED May 20, 2015.

21 BOARD OF PHARMACY
22 DEPARTMENT OF CONSUMER AFFAIRS
23 STATE OF CALIFORNIA

24 By 
25 STAN C. WEISSER
26 Board President

27 51759453.DOC
28 DOJ Matter ID:LA2014513084

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 ZACHARY T. FANSELOW
Deputy Attorney General
4 State Bar No. 274129
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2562
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 5265

11 **JESUS VILLANUEVA JR.**
12 5274 East Niland Street
13 Lynwood, CA 90262

A C C U S A T I O N

14 **Original Pharmacy Technician Registration**
15 **No. TCH 105065**

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 23, 2010, the Board of Pharmacy issued Original Pharmacy
22 Technician Registration Number TCH 105065 to Jesus Villanueva Jr. ("Respondent"). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein and will expire on November 30, 2015, 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 4300 provides, in pertinent part, that every license issued by the Board is
2 subject to discipline, including suspension or revocation.

3 5. Section 4300.1 states:

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

9 **STATUTORY PROVISIONS**

10 6. Section 4301 states:

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

14

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

18

19 "(l) The conviction of a crime substantially related to the qualifications, functions, and duties
20 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
21 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
22 substances or of a violation of the statutes of this state regulating controlled substances or
23 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
24 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
25 The board may inquire into the circumstances surrounding the commission of the crime, in order to
26 fix the degree of discipline or, in the case of a conviction not involving controlled substances or
27 dangerous drugs, to determine if the conviction is of an offense substantially related to the
28 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or

1 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
2 of this provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
5 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment."

8 REGULATORY PROVISION

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

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

16 COST RECOVERY

17 8. Section 125.3 states, in pertinent part, that the Board may request the administrative
18 law judge to direct a licentiate found to have committed a violation or violations of the licensing
19 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
20 case.

21 FIRST CAUSE FOR DISCIPLINE

22 (Conviction of a Substantially Related Crime)

23 9. Respondent is subject to disciplinary action under section 4301, subdivision (I), in
24 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
25 convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy
26 technician, which to a substantial degree evidences his present or potential unfitness to practice in
27 a manner consistent with the public health, safety, or welfare, as follows:
28

1 a. On or about November 18, 2014, after pleading nolo contendere, Respondent was
2 convicted of one felony count of violating Penal Code section 288a, subdivision (b)(2) [oral
3 copulation of a minor under 16 years of age by someone over 21 years of age], in the criminal
4 proceeding entitled *The People of the State of California v. Jesus Villanueva Jr.* (Super Ct. Los
5 Angeles County, 2014, No. VA134916).

6 b. The circumstances underlying the conviction are that on or about February 9, 2014,
7 Respondent drove to the house of V1's grandparents. At approximately midnight, V1, who was
8 twelve (12) years old, went outside to Respondent's vehicle. Respondent then sucked on V1's
9 breast and V1 performed oral copulation on him. Upon questioning by police officers, Respondent
10 stated that after he ejaculated in V1's mouth, he left because he thought V1 was acting weird.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct - Act of Moral Turpitude)**

13 10. Respondent is subject to disciplinary action under section 4301 and section 4301,
14 subdivision (f), in that Respondent committed unprofessional conduct and an act of moral
15 turpitude by engaging in sexual conduct with a minor twelve years of age. Complainant refers to,
16 and by this reference incorporates, the allegations set forth above in paragraph 9, subparagraphs a
17 and b, inclusive, 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 of Pharmacy issue a decision:

- 21 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH
22 105065, issued to Jesus Villanueva Jr.;
- 23 2. Ordering Jesus Villanueva to pay the Board of Pharmacy the reasonable costs of the
24 investigation and enforcement of this case, pursuant to Business and Professions Code section
25 125.3; and,

26 ///

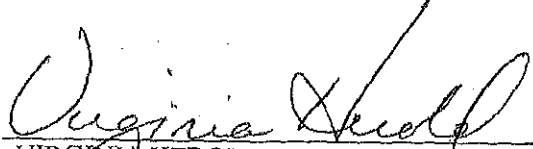
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3. Taking such other and further action as deemed necessary and proper.

DATED: 1/19/15



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

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