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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. 5496

13 **REENALYNNE TAN BERNARDO**

DEFAULT DECISION AND
ORDER

14 701 Redwood Street

Oxnard, CA 93033

15 Pharmacy Technician Registration No. TCH 106755

[Gov. Code, §11520]

16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about September 9, 2015, Complainant Virginia K. Herold, in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
20 filed Accusation No. 5496 against Reenalynne Tan Bernardo (Respondent) before the Board of
21 Pharmacy. (Accusation attached as Exhibit A.)

22 2. On or about February 16, 2011, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 106755 to Respondent. The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought in Accusation No. 5496
25 and will expire on February 28, 2017, unless renewed.

26 3. On or about September 21, 2015, Respondent was served by Certified and First Class
27 Mail copies of Accusation No. 5496, Statement to Respondent, Notice of Defense, Request for
28 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
2 is required to be reported and maintained with the Board. Respondent's address of record was
3 and is: 701 Redwood Street, Oxnard, CA 93033.

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

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

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

13 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
14 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5496.

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

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

20 8. Pursuant to its authority under Government Code section 11520, the Board finds
21 Respondent is in default. The Board will take action without further hearing and, based on the
22 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
23 taking official notice of all the investigatory reports, exhibits and statements contained therein on
24 file at the Board's offices regarding the allegations contained in Accusation No. 5496, finds that
25 the charges and allegations in Accusation No. 5496, are separately and severally, found to be true
26 and correct by clear and convincing evidence.

27 9. Taking official notice of its own internal records, pursuant to Business and
28 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement are \$1,205.00 as of November 18, 2015.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Reenalyne Tan Bernardo has subjected her Pharmacy Technician Registration No. TCH 106755 to discipline.

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

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

a. Business and Professions Code section 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of crimes substantially related to qualifications, functions, or duties of a pharmacy technician as follows:

i. On or about December 23 2014, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 602, subdivision (k) [trespassing: injure property] in the criminal proceeding entitled *The People of the State of California v. Reenalyne Bernardo* (Super. Ct. L.A. County, 2014, No. 4PY04599). The Court placed Respondent on 36 months probation, with terms and conditions.

ii. On or about June 5, 2012, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Penal Code section 243, subdivision (e)(1) [battery on spouse or cohabitant] in the criminal proceeding entitled *The People of the State of California v. Reenalyne Tan Bernardo* (Super. Ct. Ventura County, 2012, No. 2012012175). The Court sentenced Respondent to serve 3 days in jail, ordered her to attend 52 weekly sessions of domestic violence counseling, and placed her on 36 months probation, with terms and conditions.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 106755, heretofore issued to Respondent Reenalyne Tan Bernardo, 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 January 22, 2016.

It is so ORDERED December 23, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

61752214.DOC
DOJ Matter ID:LA2015501047

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(REENALYNNE TAN BERNARDO)

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12 *Attorneys for Complainant*

13 **BEFORE THE**
14 **BOARD OF PHARMACY**
15 **DEPARTMENT OF CONSUMER AFFAIRS**
16 **STATE OF CALIFORNIA**

17 In the Matter of the Accusation Against:

Case No. 5496

18 **REENALYNNE TAN BERNARDO**
19 701 Redwood Street
20 Oxnard, CA 93033

ACCUSATION

21 Pharmacy Technician Registration
22 No. TCH 106755

23 Respondent.

24 Complainant alleges:

25 **PARTIES**

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

28 2. On or about February 16, 2011, the Board issued Pharmacy Technician Registration
No. TCH 106755 to Reenalyne Tan Bernardo (Respondent). The Pharmacy Technician
Registration was in full force and effect at all times relevant to the charges brought herein and will
expire on February 28, 2017, unless renewed.

JURISDICTION

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

1 4. Section 4300 provides in pertinent part, that every license issued by the Boards 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 AND REGULATORY PROVISIONS**

10 6. Section 4301 states, in pertinent part:

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 "(g) Knowingly making or signing any certificate or other document that falsely represents
19 the existence or nonexistence of a state of facts.

20 ...

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

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

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

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

17 **COST RECOVERY**

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

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CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

9. Respondent is subject to disciplinary action under sections 4301, subdivision (1), in conjunction with, California Code of Regulations, title 16, section 1770, in that the Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician, as follows:

a. On or about December 23, 2014, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 602, subdivision (k) [trespassing: injure property] in the criminal proceeding entitled *The People of the State of California v. Reenalynne Bernardo* (Super. Ct. Los Angeles County, 2014, No. 4PY04599). The Court placed Respondent on 36 months probation, with terms and conditions. The circumstances surrounding the conviction are that on or about August 11, 2014, officers received a report of domestic violence at Respondent's residence. Respondent's husband told officers they had been arguing earlier that morning, that Respondent took his phone and threw it on the kitchen floor shattering it into multiple pieces, and that Respondent punched her husband several times with her fists on the right side of his head. Upon examination by officers, the victim was found to have multiple scratches on his neck and complained of pain and contusions on his head.

b. On or about June 5, 2012, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Penal code section 243, subdivision (e)(1) [battery on spouse or cohabitant] in the criminal proceeding entitled *The People of the State of California v. Reenalynne Tan Bernardo* (Super. Ct. Ventura County, 2012, No. 2012012175). The Court sentenced Respondent to serve 3 days in jail, ordered her to attend 52 weekly sessions of domestic violence counseling, and placed her on 36 months probation, with terms and conditions. The circumstances surrounding the conviction are that on or about April 3, 2012, Respondent and her boyfriend were involved in physical altercation. Respondent admitted to kicking her boyfriend in front of their daughter as well as biting his arm.

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DISCIPLINE CONSIDERATIONS

10. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges as follows:

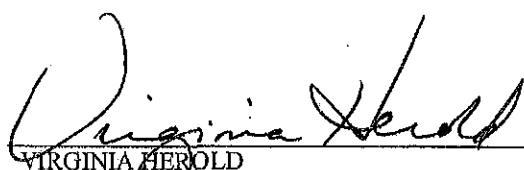
a. On or about December 29, 2008, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Health and Safety Code section 11357, subdivision (b) [possession of marijuana 28.5 grams or less] in the criminal proceeding entitled *The People of the State of California v. Reenalyne Tan Bernardo* (Super. Ct. Ventura County, 2008, No. 2008049619). The Court ordered Respondent to pay a fine. On or about January 12, 2010, the Court dismissed the matter pursuant to Penal Code section 1203.4.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 106755, issued to Reenalyne Tan Bernardo;
2. Ordering Reenalyne Tan Bernardo to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/9/15


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

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