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

In the Matter of the Accusation Against:
JAMES HILTON
2719 Canterbury Drive
Santa Rosa, CA 95405

Pharmacy Technician Registration No. TCH
29511

Respondent.

Case No. 5545

DEFAULT DECISION AND ORDER

[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about November 23, 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. 5545 against James Hilton (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about June 4, 1999, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 29511 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5545 and will expire on October 31, 2016, unless renewed.

1 3. On or about January 19, 2016, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 5545, 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: 2719 Canterbury Drive, Santa Rosa, CA 95405.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about January 21, 2016, the aforementioned documents were returned by the
11 U.S. Postal Service marked "Unclaimed."

12 6. Government Code section 11506(c) states, in pertinent part:

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

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
20 5545.

21 8. California Government Code section 11520(a) states, in pertinent part:

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

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 5545, finds that

1 the charges and allegations in Accusation No. 5545, are separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$2997.50 as of June 15, 2016.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent James Hilton has subjected his
8 Pharmacy Technician Registration No. TCH 29511 to discipline.

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

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

13 a. ~~Business and Professions Code Section 4301, subdivision (j) (unprofessional conduct~~
14 ~~– violation of statues regulating controlled substance and dangerous drugs).~~

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 29511, heretofore issued to Respondent James Hilton, 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 at 5:00 p.m. on September 9, 2016.

It is so ORDERED on August 10, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

DOJ Matter ID:SF2015900573
Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(JAMES HILTON)

1 KAMALA D. HARRIS
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2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
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5 Post Office Box 70550
Oakland, California 94612-0550
6 Telephone: (510) 622-2143
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

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. 5545

13 **JAMES M. HILTON, JR.**
a.k.a. James Marton Hilton, Jr.
2719 Canterbury Drive
Santa Rosa, California 95405

ACCUSATION

14 **Pharmacy Technician Registration No. TCH 29511,**
15
16 Respondent.

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18 Complainant Virginia Herold alleges:

19 **I. PARTIES**

20 1. Complainant brings this accusation solely in her official capacity as the Executive
21 Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

22 2. On June 4, 1999, the Board issued Pharmacy Technician Registration No.
23 TCH 29511 to respondent James M. Hilton, Jr., a.k.a. James Marton Hilton, Jr. This pharmacy
24 technician registration was in full force and effect at all times relevant to the charges brought in
25 this accusation and will expire on October 31, 2016, unless renewed.

26 **II. 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.

1 4. Section 4300 states in part:

2 "(a) Every license issued may be suspended or revoked.

3 "(b) The board shall discipline the holder of any license issued by the board, whose
4 default has been entered or whose case has been heard by the board and found guilty, by any of
5 the following methods:

6 "(1) Suspending judgment.

7 "(2) Placing him or her upon probation.

8 "(3) Suspending his or her right to practice for a period not exceeding one year.

9 "(4) Revoking his or her license.

10 "(5) Taking any other action in relation to disciplining him or her as the board in its
11 discretion may deem proper."

12 5. Section 4300.1 states:

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

18 **III. STATUTORY AUTHORITY**

19 6. Section 4060 states in part:

20 "A person shall not possess any controlled substance, except that furnished to a person
21 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
22 doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
23 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a
24 physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5,
25 or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
26 possession of any controlled substance by a manufacturer, wholesaler, third-party logistics
27 provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
28 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock

1 in containers correctly labeled with the name and address of the supplier or producer.

2 7. Section 4301 states in part:

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

7 . . .

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

10 8. Health and Safety Code section 11377, subdivision (a), states in part:

11 "Except as authorized by law and as otherwise provided in subdivision (b) or Section
12 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the

13 Business and Professions Code, every person who possesses any controlled substance which is
14 . . . (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a
15 physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished
16 by imprisonment in a county jail for a period of not more than one year or pursuant to subdivision
17 (h) of Section 1170 of the Penal Code."

18 IV. COST RECOVERY

19 9. Section 125.3, subdivision (a), states:

20 "Except as otherwise provided by law, in any order issued in resolution of a disciplinary
21 proceeding before any board within the department or before the Osteopathic Medical Board,
22 upon request of the entity bringing the proceedings, the administrative law judge may direct a
23 licensee found to have committed a violation or violations of the licensing act to pay a sum not
24 to exceed the reasonable costs of the investigation and enforcement of the case."

25 V. DRUGS

26 10. Amphetamine and dextroamphetamine are Schedule II controlled substances under
27 Health and Safety Code section 11055, subdivision (d)(1), and dangerous drugs under Business
28 and Professions Code section 4022. They are potent central nervous system stimulants used in

1 the treatment of attention deficit hyperactivity disorder, narcolepsy, and obesity.

2 11. Methamphetamine is a Schedule II controlled substance under Health and Safety
3 Code section 11055, subdivision (d)(2), and a dangerous drug under Business and Professions
4 Code section 4022. It is a highly addictive recreational drug.

5 VI. FACTUAL BACKGROUND

6 12. On May 28, 2014, at about 2:55 p.m., a highway patrol officer pulled over
7 respondent for speeding. The officer asked respondent if there was anything he needed to know
8 about the vehicle, such as if there were any guns or drugs inside. Respondent said he did not
9 know of anything. The officer asked again if there was anything he needed to know about the
10 vehicle, such as if there were any drugs inside the pickup. Respondent said that the officer was
11 making him nervous. The officer asked a third time if there were any drugs in the vehicle.
12 Respondent said yes, there was methamphetamine. He picked up a small baggie containing a

13 white crystal substance from a bag on the passenger seat. Also in the bag were 4 baggies with a
14 white residue, a metal tin containing 11 amphetamine and dextroamphetamine pills, a clear glass
15 pipe with burn marks, and needles. More needles were in a duffel bag in the back seat.

16 13. On January 28, 2015, in *People of the State of California v. James Marton Hilton,*
17 *Jr.*, Sonoma County Superior Court Case No. SCR-6513872, respondent pled guilty to
18 unauthorized possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)), a
19 misdemeanor. He was granted deferred entry of judgment (Pen. Code, §§ 1000 et seq.).

20 VII. CAUSE FOR DISCIPLINE

21 Unprofessional Conduct – Violation of Statutes Regulating Controlled Substances and 22 Dangerous Drugs Business and Professions Code section 4301, subdivision (j)

23 14. The allegations of paragraphs 10 and 11 are realleged and incorporated by
24 reference as if fully set forth.

25 15. Respondent has subjected his pharmacy technician registration to discipline for the
26 unprofessional conduct of violating statutes regulating controlled substances and dangerous drugs
27 (Bus. & Prof. Code, § 4301, subd. (j)). Without a prescription or other authorization, respondent
28 possessed amphetamine/dextroamphetamine and methamphetamine in violation of Business and

1 Professions Code section 4060 and Health and Safety Code section 11377, subdivision (a).

2
3 **VIII. PRAYER**

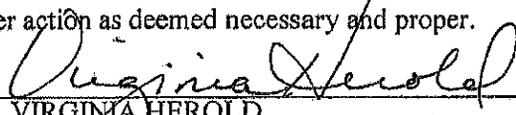
4 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this
5 accusation, and that following the hearing, the Board of Pharmacy issues a decision:

6 1. Revoking or suspending Pharmacy Technician Registration No. TCH 29511 issued
7 to respondent James M. Hilton, Jr., a.k.a. James Marton Hilton, Jr.;

8 2. Ordering respondent James M. Hilton, Jr., a.k.a. James Marton Hilton, Jr., under
9 Business and Professions Code section 125.3 to pay the Board of Pharmacy the reasonable costs
10 of the investigation and enforcement of this case; and

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

12 DATED: 11/23/15


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

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