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

In the Matter of the Accusation Against:
JUSTIN ANDREW VAZQUEZ
15315 Tokay #B
Victorville, CA 92395

Pharmacy Technician Registration
No. TCH 124217

Respondent.

Case No. 5648
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 15, 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. 5648 against Justin Andrew Vazquez (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about March 21, 2013, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 124217 to Respondent. The Pharmacy Technician Registration expired on December 31, 2014 and was cancelled on April 5, 2015, and has not been renewed.
3. On or about December 29, 2015, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5648, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of
4 record was and is: 15315 Tokay #B, Victorville, CA 92395.

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 him
15 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
16 5648.

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

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

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 5648, finds that
27 the charges and allegations in Accusation No. 5648, are separately and severally, found to be true
28 and correct by clear and convincing evidence.

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 are \$745.00 as of March 1, 2016.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 124217, heretofore issued to Respondent Justin Andrew Vazquez, 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 April 28, 2016.

It is so ORDERED on March 29, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
Amy Gutierrez, Pharm.D.
Board President

52002210.DOCX
DOJ Matter ID:LA2015502253

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(JUSTIN ANDREW VAZQUEZ)

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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5648

12 **JUSTIN ANDREW VAZQUEZ**
13 15315 Tokay #B
Victorville, CA 92395

ACCUSATION

14 Pharmacy Technician Registration No. TCH 124217

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about March 21, 2013, the Board issued Pharmacy Technician Registration
22 Number TCH 124217 to Justin Andrew Vazquez (Respondent). The Pharmacy Technician
23 Registration expired on December 31, 2014 and was cancelled on April 5, 2015, and has not been
24 renewed.

25 **JURISDICTION**

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

28 ///

1 REGULATORY PROVISIONS

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

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

9 COST RECOVERY

10 9. Section 125.3 provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
14 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
15 included in a stipulated settlement.

16 10. CONTROLLED SUBSTANCE / DANGEROUS DRUG

17 a. "Marijuana," is a Schedule I controlled substance as defined in Health and Safety code
18 section 11054, subdivision (d)(13) and is categorized as a dangerous drug according to section
19 4022.

20 b. "Norco," is a Schedule III controlled substance pursuant to Health and Safety Code
21 section 11056, subdivision (e) and is categorized as a dangerous drug pursuant to section 4022.

22 c. "Soma," is a Schedule IV controlled substance pursuant to Code of Federal
23 Regulations, title 21, section 1308.14, subdivision (c)(6), and a dangerous drug according to
24 section 4022.

25 FIRST CAUSE FOR DISCIPLINE

26 **(Illegal Possession of Controlled Substances / Dangerous Drugs)**

27 11. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision
28 (j), on the grounds of unprofessional conduct, in that on or about August 24, 2014, Respondent

1 was in possession of controlled substances and/or dangerous drugs, as follows:

2 a. On or about August 24, 2014, the San Bernardino County Sheriff's Department
3 conducted a traffic enforcement stop on a vehicle driven by Respondent, during which he was
4 found to have an outstanding misdemeanor warrant. During a search of his vehicle, the deputies
5 found a glass pipe, a large glass jar containing marijuana along with a jar containing small empty
6 baggies, an electric scale, and a small plastic container containing small white pills. Respondent
7 indicated that the pills were Norco and Somā prescription medication.

8 b. Subsequently, on or about December 10, 2014, after pleading guilty, the Court placed
9 Respondent on 18 months Deferred Entry of Judgment for violating Health and Safety Code
10 section 11357, subdivision (c) [possession of marijuana: over an ounce] in the criminal proceeding
11 entitled *The People of the State of California v. Justin Andrew Vazquez* (Super. Ct. San
12 Bernardino County, 2014, No. FVI1403252).

13 **DISCIPLINE CONSIDERATIONS**

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

16 a. On or about January 9, 2014, the Board issued Citation and Fine No. CI 2013 57794
17 to Respondent in the amount of \$200.00, on the grounds of unprofessional conduct for violating
18 section 4301, subdivisions (f) and (h) when he was arrested on August 9, 2013 for disorderly
19 conduct under the influence of alcohol/drugs. That citation is now final and incorporated by
20 reference as though fully set forth herein.

21 b. The facts and circumstances underlying Citation and Fine No. CI 2013 57794, are that
22 on or about August 9, 2013, San Bernardino County Sheriff's deputies responded to a report of a
23 fight in a Best Buy parking lot. At the scene, Respondent denied being in an altercation but had
24 visible cuts on his hands and scrapes to his elbows and his neck. While speaking to deputies, he
25 displayed signs of being intoxicated. It was subsequently determined that Respondent was unable
26 to care for himself and he was placed under arrest.

27 c. On or about January 21, 2009, after pleading guilty, Respondent was convicted of one
28 misdemeanor count of violating Health and Safety Code section 11357, subdivision (d) [possession

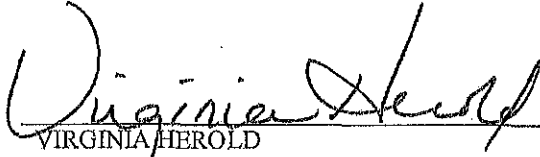
1 of marijuana on school grounds] in the criminal proceeding entitled *The People of the State of*
2 *California v. Justin Andrew Vazquez* (Super. Ct. San Bernardino County, 2009, No. MVI804671).
3 The Court sentenced Respondent to serve one day in jail and pay a fine. The circumstances
4 surrounding the conviction are that on or about September 9, 2008, Respondent was contacted by
5 a High School security guard for possible possession of marijuana. During a search, the guard
6 found two green plastic bottles containing marijuana.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician Registration No. TCH 124217, issued
11 to Justin Andrew Vazquez;
- 12 2. Ordering Justin Andrew Vazquez to pay the Board the reasonable costs of the
13 investigation and enforcement of this case, pursuant to section 125.3; and
- 14 3. Taking such other and further action as deemed necessary and proper.

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16
17 DATED: 12/15/15


18 VIRGINIA HEROLD
19 Executive Officer
20 Board of Pharmacy
21 Department of Consumer Affairs
22 State of California
23 Complainant

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