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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. 4441

13 **JENNIFER ANN HILLERMAN**
2120 North Johnson
Turlock, CA 95382

ACCUSATION

14 Pharmacy Technician Registration No. TCH 56977

15 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 June 24, 2004, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 56977 to Jennifer Ann Hillerman ("Respondent"). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on June 30, 2014, 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.

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4. Section 4300 of the Code states:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

....

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

5. Section 4300.1 of the Code states:

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

6. Section 4301 of the Code states:

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

....

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

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

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

....

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

7. Code section 4060 states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052."

DRUG

8. "Marijuana" is a Schedule I controlled substance pursuant to Health and Safety Code section 11054, subdivision (d).

COST OF RECOVERY

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

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 10. Respondent has subjected her license to disciplinary action under Code section 4301
4 subdivision (1) in that Respondent was convicted of crimes that are substantially related to the
5 qualifications, functions, and duties of a pharmacy technician:

6 a. On or about March 7, 2012, in the case entitled *The People of the State of California*
7 *v. Jennifer Ann Hillerman*, Stanislaus County Superior Court Case No. 1440879, Respondent was
8 convicted based on her plea of guilty of violating Vehicle Code Section 23152 (b) (driving under
9 the influence of alcohol with a BAC higher than 0.08), a misdemeanor. The circumstances of the
10 crime are that on or about January 7, 2012, Respondent drove a vehicle while under the influence
11 of alcohol and crashed her vehicle into a parked patrol car belonging to the CSU, Stanislaus,
12 University Police Department. A preliminary alcohol screening test was given to Respondent at
13 approximately 02:50 hours, resulting in BAC levels of .20 and .21.

14 b. On or about June 21, 2006, in the case entitled *People of the State of California v.*
15 *Jennifer Ann Hillerman*, Stanislaus County Superior Court Case No. 1100215, Respondent was
16 convicted on her plea of no contest of violating Vehicle Code 23222 (b) (Possession of Marijuana
17 by Driver), a misdemeanor. The incident upon which Respondent's conviction is based occurred
18 on or about November 2, 2005.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Use of Alcohol-Dangerous/Injurious to Self or Others)**

21 11. Respondent has subjected her license to disciplinary action for unprofessional
22 conduct under Code section 4301, subdivision (h), in that on or about January 7, 2012,
23 Respondent used or consumed alcoholic beverages to an extent or in a manner as to be dangerous
24 or injurious to herself, others, and the public, as set forth in subparagraph 8 (a) above.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(False Statement/Misrepresentation)**

27 12. Respondent has subjected her license to disciplinary action for unprofessional
28 conduct under Code section 4301, subdivision (g), in that on or about June 21, 2012, Respondent

1 knowingly signed and submitted an application for renewal of her pharmacy technician
2 registration that contained false information. In response to the question as to whether she had
3 been convicted of any crime since she last renewed her license, Respondent marked "No," when
4 in fact she had been convicted, as set forth in subparagraph 8 (a).

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Violation of Statue Regulating Controlled Substance)**

7 12. Respondent has subjected her license to disciplinary action for unprofessional
8 conduct under Code section 4301, subdivision (j), in that she violated laws of this State regulating
9 controlled substances and dangerous drugs by possessing marijuana in violation of Code section
10 4060, as set forth in subparagraph 8(b) above.

11 **PRAYER**

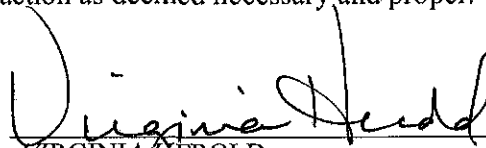
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 56977,
15 issued to Jennifer Ann Hillerman;

16 2. Ordering Jennifer Ann Hillerman to pay the Board of Pharmacy the reasonable costs
17 of the investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 125.3;

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

20
21 DATED: 8/14/13


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

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