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

10
11 In the Matter of the Accusation Against:

Case No. 5545

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

ACCUSATION

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

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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.

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4. Section 4300 states in part:

“(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.”

5. Section 4300.1 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.”

III. STATUTORY AUTHORITY

6. Section 4060 states in part:

“A person shall not 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, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, 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 licentiate 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**
23 **Business and Professions Code section 4301, subdivision (j)**

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

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

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

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3 **VIII. PRAYER**

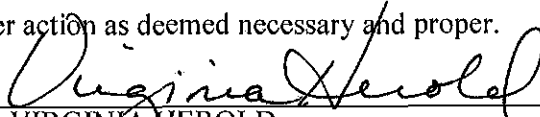
4 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this
5 accusation, and that following the hearing, the Board of Pharmacy issues a decision:

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



13 VIRGINIA HEROLD
14 Executive Officer
15 Board of Pharmacy
16 Department of Consumer Affairs
17 State of California
18 *Complainant*

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