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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. 5765

12 **KENNETH H. SILLIGMAN**
13 570 Allisha Lane
Tracy, CA 95376

ACCUSATION

14 **Pharmacy Technician Registration**
15 **No. TCH 11724**

16 Respondent.

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 **Pharmacy Technician Registration**

22 2. On or about February 10, 1994, the Board issued Pharmacy Technician Registration
23 Number TCH 11724 to Kenneth H. Silligman ("Respondent"). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on May 31, 2017, unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:

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

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

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

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

7 (4) Revoking his or her license.

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

10 4. Code section 4300.1 states:

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

17 STATUTORY PROVISIONS

18 5. Code section 4301 states, in pertinent part:

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

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

25 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
26 deceit, or corruption, whether the act is committed in the course of relations as a
27 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

28 (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

1 board may take action when the time for appeal has elapsed, or the judgment of
2 conviction has been affirmed on appeal or when an order granting probation is made
3 suspending the imposition of sentence, irrespective of a subsequent order under
4 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.

5 **COST RECOVERY**

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

12 **FIRST CAUSE FOR DISCIPLINE**

13 (Criminal Conviction)

14 7. Respondent is subject to disciplinary action pursuant to Code section 4301(l), on the
15 grounds of unprofessional conduct, in that Respondent committed crimes substantially related to
16 the qualifications, functions, and duties of a licensed pharmacy technician. Specifically, on or
17 about April 10, 2015, in a criminal proceeding entitled *People v. Kenneth Silligman*, Superior
18 Court of California, County of San Joaquin, Manteca Branch, Case No. MM129356A,
19 Respondent was convicted by the court on his plea of nolo contendere to violating Penal Code
20 section 647(a) (engaging in lewd conduct), a misdemeanor. The circumstance of the crime is that
21 on or about March 24, 2014, Respondent removed all of his clothing while out-of-doors and
22 within the perimeter of his residence, thereby exposing himself to children who were playing next
23 door and another individual.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 (Act Involving Moral Turpitude)

3 8. Respondent is subject to disciplinary action pursuant to Code section 4301(f), on the
4 grounds of unprofessional conduct, in that he committed an act involving moral turpitude.
5 Specifically, on or about March 24, 2014, Respondent engaged in lewd conduct, as set forth in
6 paragraph 7, above.

7 **THIRD CAUSE FOR DISCIPLINE**

8 (False Statement on Renewal Application)

9 9. Respondent is subject to discipline pursuant to Code section 4301(g) and (f), on the
10 grounds of unprofessional conduct, in that on or about August 28, 2015, Respondent knowingly
11 made or signed a certificate or document that falsely represented the existence or nonexistence of
12 a state of facts by failing to disclose the conviction set forth above in paragraph 7 when he
13 answered "No" to the following question on his renewal application:

14 Since you last renewed your license, have you . . . been convicted of any
15 crime in any state, the U S A and its territories, military court or a foreign
country. . .

16 In fact, Respondent was convicted on April 10, 2015, for engaging in lewd conduct, as
17 set forth in paragraph 7, above.

18 **PRAYER**

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

- 21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 11724,
22 issued to Kenneth H. Silligman;
- 23 2. Ordering Kenneth H. Silligman to pay the Board of Pharmacy the reasonable costs of
24 the investigation and enforcement of this case, pursuant to Business and Professions Code section
25 125.3; and,

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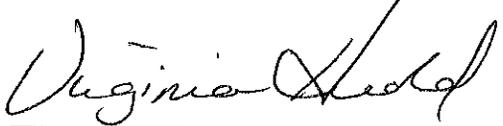
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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/27/16



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

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