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

In the Matter of the Accusation Against:

Case No. 3899

**KIKILYNN JUMPER
84 Minot Avenue
Chula Vista, CA 91940**

DEFAULT DECISION AND ORDER

**Pharmacy Technician Registration
No. TCH 68444**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about March 9, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3899 against Kikilynn Jumper (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about April 18, 2006, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 68444 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

3. On or about March 15, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3899, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code

1 section 4100 and California Code of Regulations, title 16, section 1704, is required to be reported
2 and maintained with the Board, which was and is:

3 84 Minot Avenue
4 Chula Vista, CA 91940

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. On or about March 18, 2011, the certified mail receipt for the aforementioned
9 documents was returned by the U.S. Postal Service indicating that "S. Jumper" signed for the
10 documents on March 17, 2011.

11 6. Government Code section 11506 states, in pertinent part:

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3899.

19 8. California Government Code section 11520 states, in pertinent part:

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

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 3899, finds that
the charges and allegations in Accusation No. 3899, are separately and severally, found to be true
and correct by clear and convincing evidence.

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1 Business and Professions Code sections 4022 and 4059, and Health and Safety Code sections
2 11170 and 11173, when she obtained and/or furnished to herself controlled substances and
3 dangerous drugs without a valid prescription.

4 e. Respondent is subject to disciplinary action under section 4301,
5 subdivision (o) of the Code for unprofessional conduct in that between February 2008 and March
6 25, 2009, Respondent obtained controlled substances by fraud from the pharmacy where she was
7 employed, and knowingly violated Title 21 U.S.C. section 843, subdivision (a)(3), Board of
8 Pharmacy Regulations (California Code of Regulations, Title 16, Section 1700, et seq.), and the
9 California Uniform Controlled Substances Act (Health and Safety Code section 11000, et seq.).

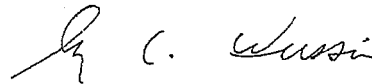
10 **ORDER**

11 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 68444, heretofore
12 issued to Respondent Kikilynn Jumper, is revoked.

13 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
14 written motion requesting that the Decision be vacated and stating the grounds relied on within
15 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
16 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

17
18 This Decision shall become effective on June 22, 2011.

19 It is so ORDERED May 23, 2011.

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22 _____
23 STANLEY C. WEISSER, BOARD PRESIDENT
24 FOR THE BOARD OF PHARMACY
25 DEPARTMENT OF CONSUMER AFFAIRS

26 DOJ Matter ID: SD2010703194

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3899

13 **KIKILYNN JUMPER**
14 **84 Minot Avenue**
Chula Vista, CA 91940

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 68444**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about April 18, 2006, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 68444 to Kikilynn Jumper (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on May 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4300, subdivision (a) of the Code states "Every license issued may be suspended or revoked."

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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STATUTORY PROVISIONS

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:

....

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

(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.

....

(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.

....

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1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
2 abetting the violation of or conspiring to violate any provision or term of this chapter
3 or of the applicable federal and state laws and regulations governing pharmacy,
including regulations established by the board or by any other state or federal
regulatory agency.

4

5 7. Section 4022 of the Code states

6 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
7 self-use in humans or animals, and includes the following:

8 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

9 (b) Any device that bears the statement: "Caution: federal law restricts this
10 device to sale by or on the order of a _____," "Rx only," or words of similar
11 import, the blank to be filled in with the designation of the practitioner licensed to use
or order use of the device.

12 (c) Any other drug or device that by federal or state law can be lawfully
dispensed only on prescription or furnished pursuant to Section 4006.

13 8. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
14 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
16 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
17 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

18 9. Section 4060 of the Code states:

19 No person shall possess any controlled substance, except that furnished to a
20 person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
21 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
22 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
23 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
shall not apply to the possession of any controlled substance by a manufacturer,
24 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
25 physician assistant, when in stock in containers correctly labeled with the name and
address of the supplier or producer.

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1 10. Health and Safety Code section 11170 states that "No person shall prescribe,
2 administer, or furnish a controlled substance for himself."

3 11. Health and Safety Code section 11173 states:

4 (a) No person shall obtain or attempt to obtain controlled substances, or procure
5 or attempt to procure the administration of or prescription for controlled substances,
6 (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a
7 material fact.

8 (b) No person shall make a false statement in any prescription, order, report, or
9 record, required by this division.

10

11 12. United States Code, title 21, section 843 states, in pertinent part:

12 (a) It shall be unlawful for any person knowingly or intentionally –

13

14 (3) to acquire or obtain possession of a controlled substance by
15 misrepresentation, fraud, forgery, deception, or subterfuge;

16

17 COST RECOVERY

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

22 DRUGS

23 14. Alprazolam, the generic name for Xanax, is a Schedule IV controlled substance under
24 California Health and Safety Code section 11057, subdivision (d)(1), and is classified as a
25 dangerous drug pursuant to Business and Professions Code section 4022.

26 15. Hydrocodone/APAP, sold under the brand names Vicodin, Norco, Lorcet, et al., is a
27 Schedule III controlled substance as designated by Health and Safety Code section 11056,
28 subdivision (e)(4), and is classified as a dangerous drug pursuant to Business and Professions
Code section 4022.

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1 authority. The prescriptions would be filled, then Respondent would cancel, delete, or “un-sell”
2 the transaction using a variety of computer input methods, pick up the filled prescription, and
3 either give the prescription to an accomplice, or remove it from the pharmacy herself. In some
4 instances, the prescriptions were mailed. This method would allow Respondent to fraudulently
5 refill the same prescription numerous times. Computer records indicate that Respondent’s theft
6 of controlled substances from the pharmacy started in February 2008.

7 21. On April 3, 2009, a meeting was held with Respondent, her union representative, and
8 members of Kaiser’s security and management teams. She was confronted with two prescriptions
9 she had requested to be filled and returned to stock, but were actually diverted by Respondent. A
10 search of Respondent revealed a list of patients and their medical record numbers in her lab coat
11 pocket that matched patients who had been victims of her prescription fraud. After denying the
12 allegations multiple times, Respondent made a written statement confessing to the manipulation
13 of “about six” patients’ records, and that her theft of controlled substances from the pharmacy
14 was for her own personal use. Respondent told investigators that she targeted patients based on
15 the type of medication they had been prescribed. Further, Respondent had placed multiple orders
16 in the name of her husband, who was serving on active duty with the U.S. Navy at the time.
17 Respondent was placed on suspension pending termination (on April 22, 2009).

18 22. On April 6, 2009, the Anti-Fraud Team completed its audit and provided both the
19 Drug Enforcement Agency and the Board with their estimation of the narcotics stolen, the losses
20 of narcotics, as well as the circumstances of the loss starting in February 15, 2008 until March 25,
21 2009, as follows²:

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24 ² The “in and out analysis” of the pharmacy’s inventory conducted by the Board’s
25 inspector in Investigation Report No. CI 2008-39749, using data reported by the Anti-Fraud
26 Team, shows the losses at a higher amount than indicated in Kaiser’s report submitted to the DEA
27 and the Pharmacy Board on April 6, 2009. Kaiser investigators based their numbers on an
28 inventory taken on March 16, 2008, the inventory on April 26, 2009, and the amount of
controlled substances ordered and sold between those two dates. They did not take into
consideration the drugs that were “on the shelf” ready to be dispensed during that timeframe
when making their calculations. This Accusation references the calculations provided by the
Board inspector.

<u>Drug</u>	<u>Kaiser Amount Unaccounted For</u>	<u>Board Amount Unaccounted For</u>
Hydrocodone/APAP 5-325	580 tablets	1,700 tablets
Hydrocodone/APAP 5-500	520 tablets	1,210 tablets
Hydrocodone/APAP 7.5-750	0	100 tablets
Promethazine w/Codeine Syrup	15,600 ml	28,320 ml
Alprazolam 0.25 mg	180 tablets	900 tablets
Lunesta (Eszopiclone) 3 mg	30 tablets	0

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Moral Turpitude, Dishonesty, Fraud, Deceit & Corruption)

23. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the Code in that on or about and between February 2008 and March 25, 2009, Respondent stole controlled substances and dangerous drugs from her employer using fraud, deceit, and dishonesty, as detailed in paragraphs 17-22, above. Such conduct is substantially related to the qualifications, duties, and functions of a pharmacy technician.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Forgery)

24. Respondent is subject to disciplinary action under section 4301, subdivision (g) of the Code in that on or about and between February 2008 and March 25, 2009, Respondent knowingly made and signed false documents, and/or made computer entries to fraudulently obtain controlled substances from her employer, as detailed in paragraphs 17-22, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Illegal Use of Controlled Substances)

25. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the Code in that on or about and between February 2008 and March 25, 2009, Respondent illegally obtained controlled substances and admitted they were for her own personal use, in quantities that would be dangerous or injurious to herself, as detailed in paragraphs 17-22, above.

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FOURTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct - Violation of California Statutes Regulating
Controlled Substances & Dangerous Drugs)**

26. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the Code in that on or about on or about and between February 2008 and March 25, 2009, Respondent knowingly violated Business and Professions Code sections 4022 and 4059, and Health and Safety Code sections 11170 and 11173, when she obtained and/or furnished to herself controlled substances and dangerous drugs without a valid prescription, as detailed in paragraphs 17-22, above.

FIFTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct - Violating Federal & State Laws
& Regulations Governing Pharmacy)**

27. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the Code in that between February 2008 and March 25, 2009, Respondent obtained controlled substances by fraud from the pharmacy where she was employed, and knowingly violated Title 21 U.S.C. section 843, subdivision (a)(3), Board of Pharmacy Regulations (California Code of Regulations, Title 16, Section 1700, et seq.), and the California Uniform Controlled Substances Act (Health and Safety Code section 11000, et seq.), as detailed in paragraphs 17-22, above.

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PRAYER

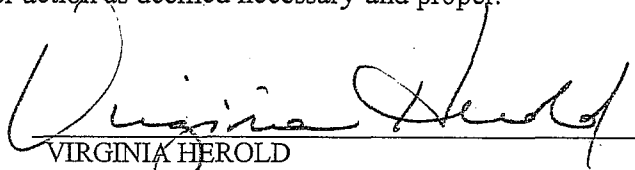
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 68444, issued to Kikilynn Jumper;

2. Ordering Kikilynn Jumper to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 3/9/11



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

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