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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. 3979

**JENNIFER HARMONY GONZALES
aka JENNIFER GONZALES aka
JENNIFER SIENG**

DEFAULT DECISION AND ORDER

**254 S. 4th St., #1
Redlands CA 92373**

[Gov. Code, §11520]

**Pharmacy Technician Registration No. TCH
84096**

Respondent.

FINDINGS OF FACT

1. On or about May 26, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3979 against Jennifer Harmony Gonzales aka Jennifer Gonzales aka Jennifer Sieng ("Respondent") before the Board of Pharmacy. (Accusation attached as **Exhibit A.**)

2. On or about June 30, 2008, the Board of Pharmacy ("Board") issued Pharmacy Technician Registration No. TCH 84096 to Respondent. The Pharmacy Technician Registration expired on January 31, 2012, and has not been renewed.

1 3. On or about June 5, 2012, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 3979, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
5 section 1409.1, is required to be reported and maintained with the Board, which was and is:
6 254 S. 4th St., #1
7 Redlands, CA 92373.

8 4. Service of the Accusation was effective as a matter of law under the provisions of
9 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
10 124. Respondent never filed a Notice of Defense.

11 5. California Government Code section 11520 states, in pertinent part:

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

16 6. Pursuant to its authority under Government Code section 11520, the Board finds
17 Respondent is in default. The Board will take action without further hearing and, based on the
18 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
19 taking official notice of all the investigatory reports, exhibits and statements contained therein on
20 file at the Board's offices regarding the allegations contained in Accusation No. 3979, finds that
21 the charges and allegations in Accusation No. 3979, are separately and severally, found to be true
22 and correct by clear and convincing evidence.

23 7. Taking official notice of its own internal records, pursuant to Business and
24 Professions Code ("Code") section 125.3, it is hereby determined that the reasonable costs for
25 Investigation and Enforcement is \$2,737.50 as of November 20, 2012.

26 DETERMINATION OF ISSUES

27 1. Based on the foregoing findings of fact, Respondent Jennifer Harmony Gonzales aka
28 Jennifer Gonzales aka Jennifer Sieng has subjected her Technician Registration No.TCH 85096 to
discipline.

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2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent's Technician Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.

a. Respondent is subject to disciplinary action under Business and Professions Code (the Code) section 4301, (illegal possession of drugs), when she stole drugs from a pharmacy. The conduct is described in more particularity in Accusation No. 3979, inclusive and herein incorporated by reference.

b. Respondent is subject to disciplinary action under section 4301, subdivision (l) of the Code on grounds of being convicted of a crime substantially related to the functions, duties, and qualifications of a pharmacy technician. The conduct is described in more particularity in Accusation No. 3979, inclusive and herein incorporated by reference.

c. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and (h) of the Code on grounds of being under the influence of controlled substances and dangerous drugs. The conduct is described in more particularity in Accusation No. 3979, inclusive and herein incorporated by reference.

ORDER

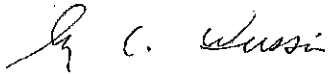
IT IS SO ORDERED that Technician Registration No.TCH 84096, heretofore issued to Respondent Jennifer Harmony Gonzales aka Jennifer Gonzales aka Jennifer Sieng is revoked.

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 on January 28, 2013.

It is so ORDERED ON December 28, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA


By _____
STANLEY C. WEISSER
Board President

51015372.DOC
DOJ Matter ID:LA2011601501

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 ALFREDO TERRAZAS
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3 GLORIA A. BARRIOS
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7 *Attorneys for Complainant*

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. 3979

13 **JENNIFER HARMONY GONZALES**
14 **a.k.a., JENNIFER GONZALES**
15 **a.k.a., JENNIFER SIENG**
254 S. 4th Street, #1
16 Redlands, CA 92373

A C C U S A T I O N

17 Pharmacy Technician Registration
18 No. TCH 84096

Respondent.

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 June 30, 2008, the Board of Pharmacy issued Pharmacy Technician
24 Registration No. TCH 84096 to Jennifer Harmony Gonzales, also known as Jennifer Gonzalez
25 and Jennifer Sieng (Respondent). The Pharmacy Technician Registration was in full force and
26 effect at all times relevant to the charges brought herein and will expire on January 31, 2012,
27 unless renewed.

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1 **JURISDICTION**

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

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b), provides, in pertinent part, that the expiration of a
6 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
7 period within which the license may be renewed, restored, reissued or reinstated.

8 5. Section 490 states, in pertinent part:

9 "(a) In addition to any other action that a board is permitted to take against a licensee, a
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a
11 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
12 or profession for which the license was issued.

13 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
14 discipline a licensee for conviction of a crime that is independent of the authority granted under
15 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
16 of the business or profession for which the licensee's license was issued.

17 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
18 conviction following a plea of nolo contendere. Any action that a board is permitted to take
19 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
20 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
21 made suspending the imposition of sentence, irrespective of a subsequent order under the
22 provisions of Section 1203.4 of the Penal Code."

23 6. Section 4300 provides, in pertinent part that every license issued by the Board is
24 subject to discipline, including suspension or revocation.

25 7. Section 4301 states, in pertinent part:

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

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

5

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

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

13

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

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
2 indictment.”

3

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

8 8. **CONTROLLED SUBSTANCE**

9 a. "Alprazolam," is the generic name for Xanax. It is a Schedule IV controlled
10 substance as designated in Health and Safety Code section 11057, subdivision (d) and is a
11 dangerous drug pursuant to section 4022.

12 b. "Marijuana," is a Schedule I controlled substance as designated in Health and Safety
13 Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug pursuant to
14 section 4022.

15 c. "Norco," is the brand name for Hydrocodone and Acetaminophen. It is a Schedule III
16 controlled substance as designated in Health and Safety Code section 11056, subdivision (e) and
17 is categorized as dangerous drugs pursuant to section 4022.

18 d. "Vicodin," is the brand name for Hydrocodone and Acetaminophen. It is a Schedule
19 III controlled substance as designated in Health and Safety Code section 11056(e)(4) and is
20 categorized as dangerous drugs pursuant to section 4022.

21 9. **DANGEROUS DRUG**

22 a. "Glyburide," is used to reduce blood glucose, and is categorized a dangerous drug
23 pursuant to section 4022.

24 b. "Lexapro," is the brand name for Escitalopram, and is used to treat depression and
25 anxiety, and is categorized a dangerous drug pursuant to section 4022.

26 c. "Tramadol," is the generic name for Ultram, and is used for treating moderate to
27 moderately severe pain and is categorized a dangerous drug pursuant to section 4022.

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Substantially Related Crime)**

16 12. Respondent is subject to disciplinary action under section 4301, subdivision (l) and
17 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
18 Respondent has been convicted of a crime substantially related to the qualifications, functions, or
19 duties of a pharmacy technician. On or about December 16, 2010, after pleading guilty,
20 Respondent was convicted of one misdemeanor count of violating Health and Safety Code section
21 11366 [unlawfully selling, giving away, or using any controlled substance] in the criminal
22 proceeding entitled *The People of the State of California v. Jennifer Gonzalez* (Super. Ct. San
23 Bernardino County, 2010, No. FSB10040240.) The Court sentenced Respondent to serve 120
24 days in San Bernardino County Jail and ordered pronouncement of Judgment withheld and a
25 Conditional and Revocable Release granted for a period of 24 months, with terms and conditions.
26 The circumstances surrounding the conviction are that on or about August 16, 2010, during a
27 traffic stop, by the California Highway Patrol Department, Respondent was contacted. While
28 speaking to Respondent the officer detected a strong odor of marijuana emitting from the vehicle.

1 She was observed to be nervous and had red watery eyes. When asked how much marijuana she
2 had in the vehicle, Respondent admitted she had an ounce of marijuana in her back seat. During a
3 search of Respondent's vehicle, the officer found a plastic baggie stuffed with a green leafy
4 substance and a strong odor, in the back pocket of the driver's seat. In addition, the officer found
5 four plastic sandwich bags, inside a make up case. One bag contained a green leafy substance,
6 resembling marijuana. The three other bags contained various amounts of prescription
7 medications. When asked who the marijuana and pills belonged to, Respondent admitted that
8 they belonged to her. When asked where she got them from, Respondent admitted that she got
9 them from a friend, but did not have a prescription for them. Additionally, Respondent admitted
10 that the pills were Norco (2 pills), Vicodin (73 pills), and Tramadol (140 pills). Furthermore,
11 Respondent possessed 3 pill containers with prescription labels for her. The prescriptions were
12 Glyburide, Alprazolam, and Lexapro. Due to the level of intoxication, Respondent was unable to
13 perform the field sobriety test as explained and demonstrated. Respondent was subsequently
14 arrested for violating Vehicle Code Section 23152, subdivision (a) [driving under the influence of
15 alcohol or drugs], Health and Safety Code section 11357, subdivision (c) [possession of more
16 than 28.5 grams of marijuana], Health and Safety Code section 11377, subdivision (a) [possession
17 of a controlled substance], and Business and Professions Code section 4060 [possession of
18 prescription drugs without a valid prescription]. During the booking procedure, Respondent
19 admitted that she took one Lexapro and 2 Xanax at 6:00 p.m. In addition, she admitted that she
20 took one Vicodin at 6:00 p.m. that was not prescribed to her and she smoked two bowls of
21 Marijuana at 7:00 p.m., without a medical marijuana prescription.

22 SECOND CAUSE FOR DISCIPLINE

23 **(Use/Under the Influence of a Controlled Substance and Prescription Drugs)**

24 13. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
25 (h), in that or on about August 16, 2010, Respondent, by her own admission, used and/or was
26 under the influence of a controlled substance, numerous prescription medications, and
27 prescription medications not prescribed to her. Complainant refers to, and by this reference
28 incorporates, the allegations set forth above in paragraph 12, as though set forth in fully.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Illegal Possession of a Prescription Drugs without a Valid Prescription)**

3 14. Respondent is subject to disciplinary action under sections 4301, subdivisions (j) and
4 (o), for violating section 4060, in that or on about August 16, 2010, Respondent was found to be
5 in possession of a controlled substance and prescription drugs, without a valid prescription.
6 Complainant refers to, and by this reference incorporates, the allegations set forth above in
7 paragraph 12, as though set forth in fully.

8 15. On or about September 30, 2011, was arrested by the San Bernardino Police
9 Department for stealing prescription medication. Respondent employed as a Pharmacy Tech for
10 Rite Aid located at 2130 East Highland Avenue, San Bernardino, CA. Respondent admitted to
11 stealing pills for one year from the pharmacy including but not limited to the following;

- 12 a. 600 pills Norco;
13 b. 500 pills Vicodin; and
14 c. 200 pills Tramadol for a total value of \$14,287.00.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Dishonest Acts)**

17 16. Respondent is subject to disciplinary action under sections 4301, subdivisions (f), in
18 that or on about September, 2010 through September, 2011, Respondent stole prescription pills
19 from the pharmacy where she was employed as a Pharmacy Tech. Complainant refers to, and by
20 this reference incorporates, the allegations set forth above in paragraph 15, as though set forth in
21 fully.

22 **PRAYER**

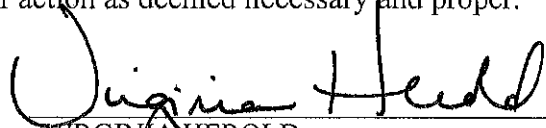
23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board issue a decision:

- 25 1. Revoking or suspending Pharmacy Technician Registration No. TCH 84096, issued
26 to Respondent;
27 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
28 enforcement of this case, pursuant to section 125.3; and

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

DATED: 5/26/12



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

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