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

In the Matter of the Accusation Against:
JEANNETTE PADILLA
714 Grand Street D
Nipomo, CA 93444
**Pharmacy Technician Registration No. TCH
103465**

Respondent.

Case No. 4209

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 9, 2012, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the California State Board of Pharmacy, filed Accusation No. 4209 against Jeannette Padilla (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about June 29, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 103465 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4209 and will expire on March 31, 2014, unless renewed.
3. On or about November 19, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4209, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 4100, is required to be reported and maintained with the Board. Respondent's address of
3 record was and is: 714 Grand Street D, Nipomo, CA 93444.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 5. Government Code section 11506 states, in pertinent part:

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

13 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
14 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4209.

15 7. California Government Code section 11520 states, in pertinent part:

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

20 8. Pursuant to its authority under Government Code section 11520, the Board finds
21 Respondent is in default. The Board will take action without further hearing and, based on the
22 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
23 taking official notice of all the investigatory reports, exhibits and statements contained therein on
24 file at the Board offices regarding the allegations contained in Accusation No. 4209, finds that the
25 charges and allegations in Accusation No. 4209, are separately and severally, found to be true and
26 correct by clear and convincing evidence.

27 9. Taking official notice of its own internal records, pursuant to Business and
28 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$1,365.00.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Jeannette Padilla has subjected
3 her Pharmacy Technician Registration No. TCH 103465 to discipline.

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

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

8 a. Bus. & Prof. Code, §§ 4301(l) and 490 (Convictions of Substantially Related Crime;
9 Penal Code section 368(e) [elder/dependant adult theft]) and

10 b. Bus. & Prof. Code, § 4301(f) (Acts Involving Dishonesty, Fraud, or Deceit).

11 ORDER

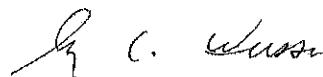
12 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 103465, heretofore
13 issued to Respondent Jeannette Padilla, is revoked.

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

18 This Decision shall become effective on March 3, 2013.

19 It is so ORDERED ON January 31, 2013.

20 BOARD OF PHARMACY
21 DEPARTMENT OF CONSUMER AFFAIRS
22 STATE OF CALIFORNIA

23 

24 By _____
25 STANLEY C. WEISSER
26 Board President

26 51204215.DOC
27 DOJ Matter ID:LA2011505731

28 Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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3 NANCY A. KAISER
Deputy Attorney General
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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. 4209

13 **JEANNETTE PADILLA**
714 Grand Street D
Nipomo, CA 93444

A C C U S A T I O N

14 **Pharmacy Technician License**
15 **No. TCH 103465**

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 29, 2010, the Board of Pharmacy (Board) issued Pharmacy
22 Technician License No. TCH 103465 to Jeannette Padilla (Respondent). The Pharmacy
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on March 31, 2014, unless renewed.

25 **JURISDICTION**

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

28 ///

STATUTORY PROVISIONS

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

6 5. Section 490 states, in pertinent part:

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

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

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

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

23 7. Section 4301 states, in pertinent part:

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

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1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Convictions of Substantially Related Crimes)**

10 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
11 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
12 Respondent has been convicted of a crime substantially related to the qualifications, functions or
13 duties of a pharmacy technician. On or about July 12, 2011, after pleading nolo contendere,
14 Respondent was convicted of one misdemeanor count of violating Penal Code section 368,
15 subdivision (e) [elder/dependant adult theft], in the criminal proceeding entitled *The People of the*
16 *State of California v. Jeannette Padilla* (Super. Ct. San Luis Obispo County, 2011, No.
17 M000457750). The Court placed Respondent on 3 years probation, with terms and conditions.
18 The circumstances surrounding the conviction are that on or about December 22, 2010,
19 Respondent while working as an in-home provider used the credit card of S.H., the elder or
20 dependant adult under her care, to make several unauthorized purchases. During an investigation
21 by the San Luis Obispo Sheriff's Department, Respondent admitted to the officer that she had
22 bought items for herself and that she was intending to reimburse the victim at some point.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Acts Involving Dishonest Acts, Fraud, or Deceit)**

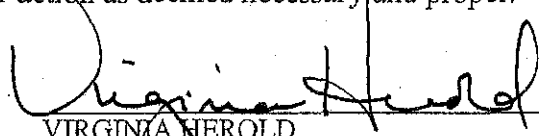
25 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
26 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
27 substantially benefit herself, or substantially injure another. Complainant refers to, and by this
28 reference incorporates, the allegations set forth above in paragraph 10, as though set forth fully.

PRAYER

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

1. Revoking or suspending Pharmacy Technician License No. TCH 103465, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/9/12



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

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