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

In the Matter of the Accusation Against:

AMANDA MEEHAN HERRON
4550 Deerfield Drive
Antioch, CA 94531

**Pharmacy Technician Registration No. TCH
58247**

Respondent.

Case No. 4211

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 22, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4211 against Amanda Meehan Herron (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about September 10, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 58247 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4211 and will expire on April 30, 2012, unless renewed.
3. On or about February 29, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4211, 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: 4550 Deerfield Drive, Antioch, CA 94531.

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. On or about March 1, 2012, the U.S. Postal Service returned the Domestic Return
8 Receipt marked "Received."

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4211.

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

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

22 9. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 4211, finds that
27 the charges and allegations in Accusation No. 4211, are separately and severally, found to be true
28 and correct by clear and convincing evidence.

10 Taking official notice of its own internal records, pursuant to Business and
11 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
12 and Enforcement is \$1,515.00 as of May 24, 2012.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Amanda Meehan Herron has
3 subjected her Pharmacy Technician Registration No. TCH 58247 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. Business and Professions Code sections 4300(h), 4301(k), 4301(l), 4301(o), 4301(p),
9 and/or 490 (criminal convictions resulting from driving under the influence of narcotics and
10 reckless driving).

11
12 ORDER

13 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 58247, heretofore
14 issued to Respondent Amanda Meehan Herron, is revoked.


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

19 This Decision shall become effective on September 14, 2012.

20 It is so ORDERED on August 15, 2012.

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

24
25 By



26 STANLEY C. WEISSER
27 Board President

28 default decision_LIC.rtf
DOJ Matter ID:SF2011400530
Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
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455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4211

11 **AMANDA MEEHAN HERRON**
12 **4550 Deerfield Drive**
13 **Antioch, CA 94531**

ACCUSATION

14 **Pharmacy Technician License No. TCH**
15 **58247**

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 September 10, 2004, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 58247 to Amanda Meehan Herron (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 April 30, 2012, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4300 of the Code states:

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

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

6 "(1) Suspending judgment.

7 "(2) Placing him or her upon probation.

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

9 "(4) Revoking his or her license.

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

12 ..."

13 5. Section 4301 of the Code states:

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

17 ...

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

23 ...

24 "(k) The conviction of more than one misdemeanor or any felony involving the use,
25 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
26 combination of those substances.

27 "(l) The conviction of a crime substantially related to the qualifications, functions, and
28 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13

1 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
2 substances or of a violation of the statutes of this state regulating controlled substances or
3 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
4 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
5 The board may inquire into the circumstances surrounding the commission of the crime, in order
6 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
7 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
8 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
9 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
10 of this provision. The board may take action when the time for appeal has elapsed, or the
11 judgment of conviction has been affirmed on appeal or when an order granting probation is made
12 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
13 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
14 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
15 indictment.

16
17 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
18 violation of or conspiring to violate any provision or term of this chapter or of the applicable
19 federal and state laws and regulations governing pharmacy, including regulations established by
20 the board or by any other state or federal regulatory agency.

21 "(p) Actions or conduct that would have warranted denial of a license.

22 ..."

23 6. Section 490 of the Code provides, in pertinent part, that a board may suspend or
24 revoke a license on the ground that the licensee has been convicted of a crime substantially
25 related to the qualifications, functions, or duties of the business or profession for which the
26 license was issued.

27 ///

28 ///

1 7. California Code of Regulations, title 16, section 1770, states:

2 "For the purpose of denial, suspension, or revocation of a personal or facility license
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
6 licensee or registrant to perform the functions authorized by his license or registration in a manner
7 consistent with the public health, safety, or welfare."

8 8. Section 4021 of the Code states:

9 "Controlled substance' means any substance listed in Chapter 2 (commencing with Section
10 11053) of Division 10 of the Health and Safety Code."

11 9. Section 4022 of the Code states

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

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

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

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

21 10. Section 118, subdivision (b), of the Code provides that the expiration of a license
22 shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action
23 during the period within which the license may be renewed, restored, reissued or reinstated.

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

28 ///

DRUGS

12. Alprazolam is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1) and is a dangerous drug per Code section 4022. It is used for anxiety.

13. Methocarbamol is a dangerous drug per Code section 4022 and is used for muscle spasms.

14. Nabumetone is a dangerous drug per Code section 4022 and is used for relief of arthritis symptoms.

15. Phentermine is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(f)(4) and is a dangerous drug per Code section 4022. It is used for weight loss.

16. Hydrocodone is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(I) and is a dangerous drug per Code section 4022, used for moderate to severe pain relief.

17. Clonazepam is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(7) and is a dangerous drug per Code section 4022, used for anxiety.

18. Diazepam is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(9) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug.

19. Soma, or Carisoprodol, is a dangerous drug per Code section 4022 and is used for muscle relaxation.

CAUSE FOR DISCIPLINE

(CRIMINAL CONVICTIONS)

20. Respondent is subject to disciplinary action under sections 4300(h), 4301(k), 4301(l), 4301(o), 4301(p), and/or 490 in that on or about August 11, 2011, in a criminal proceeding entitled *The People of the State of California v. Amanda Meehan Herron* in Contra Costa County Superior Court, Case Number 04-167774-9, Respondent was convicted of violating Vehicle Code section 23152(a)(driving under the influence of narcotics with a prior). Respondent was

1 sentenced to serve 10 days in jail, probation for three years, and fined in the amount of \$1,280.00.
2 The circumstances of the conviction are that on or about August 12, 2010, Respondent's vehicle
3 collided with another vehicle at 1703 Observation Way in Antioch, California. Respondent's
4 vehicle overturned in the accident, and Respondent had to be removed from her vehicle by
5 emergency personnel. When questioned by police, Respondent's speech was slow and slurred,
6 and she kept closing her eyes as if falling asleep. Respondent reported to the police that she had
7 taken five to seven Norco (Hydrocodone) and five to seven Soma (Carisoprodol) that day.
8 Respondent had the following medications on her at the time of the accident: 64 Alprazolam, 65
9 Methocarbamol, 3 Nabumetone, 16 Phentermine, 75 Hydrocodone, 1 Clonazepam, and 4
10 Diazepam.

11 21. Respondent is subject to disciplinary action under sections 4300(h), 4301(k), 4301(l),
12 4301(o), 4301(p), and/or 490 in that on or about August 11, 2011, in a criminal proceeding
13 entitled *The People of the State of California v. Amanda Meehan Herron* in Contra Costa County
14 Superior Court, Case Number 4-170015-2, Respondent was convicted of violating Vehicle Code
15 section 23103(a) (reckless driving). Respondent was sentenced to serve probation for four years.
16 The circumstances of the conviction are that on or about January 27, 2011, Respondent's vehicle
17 collided with another vehicle in the parking lot at 2329 Buchanan Road in Antioch, California.
18 Respondent spoke slowly to the police, stuttered as she spoke, and had trouble standing. She was
19 unable to pass field sobriety tests and reported that she had taken a Norco (Hydrocodone) earlier
20 in the day. Respondent had the following medications on her at the time of the accident: 24
21 Carisoprodol, 9 broken portions of Clonazepam tablets, and several other unidentified
22 medications.

23 MATTERS IN AGGRAVATION

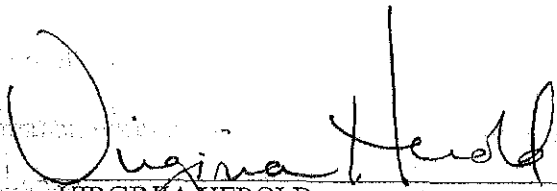
24 22. As relevant to discipline, if any, Complainant alleges that on or about July 17, 2002,
25 Respondent was convicted of violating Vehicle Code section 23152(a) (driving under the
26 influence of alcohol). Respondent was sentenced to serve probation for two years, two days of
27 work alternative program, and ordered to pay fines and fees in the amount of \$1,300.00.
28

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 License Number TCH 58247, issued to Amanda Meehan Herron;
2. Ordering Amanda Meehan Herron 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: 2/22/12



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

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