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3 **BEFORE THE**
4 **BOARD OF PHARMACY**
5 **DEPARTMENT OF CONSUMER AFFAIRS**
6 **STATE OF CALIFORNIA**

6 In the Matter of the Accusation Against:

Case No. 4353

7 **JASON DANIEL CASEY**
8 655 EUCALYPTUS AVENUE
9 NEWMAN, CA 95360

DEFAULT DECISION AND ORDER

9 TECHNICIAN REGISTRATION NO. TCH 85822

[Gov. Code, §11520]

10 Respondent.

11
12 FINDINGS OF FACT

13 1. On or about May 18, 2016 Complainant Virginia K. Herold, in her official capacity as
14 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
15 Accusation No. 4353 against Jason Daniel Casey (Respondent) before the Board of Pharmacy.
16 (Accusation attached as Exhibit A.)

17 2. On or about August 29, 2008, the Board of Pharmacy (Board) issued Original
18 Pharmacy Technician Registration Number TCH 85822 to Respondent.

19 3. On or about May 25, 2016 Respondent was served by Certified and First Class Mail
20 copies of the Accusation No. 4353, Statement to Respondent, Request for Discovery, Notice of
21 Defense (2 copies), and Government Code Sections 11507.5, 11507.6 and 11507.7, at
22 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
23 is required to be reported and maintained with the Board. Respondent's address of record was
24 and is: 655 Eucalyptus Avenue, Newman, CA 95360.

25 4. Service of the Accusation was effective as a matter of law under the provisions of
26 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
27 124.
28

1 5. Government Code section 11506(c) states, in pertinent part:

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

7 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
8 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
9 4353.

10 7. California Government Code section 11520(a) states, in pertinent part:

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

15 8. Pursuant to its authority under Government Code section 11520, the Board finds
16 Respondent is in default. The Board will take action without further hearing and, based on the
17 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
18 taking official notice of all the investigatory reports, exhibits and statements contained therein on
19 file at the Board's offices regarding the allegations contained in Accusation No. 4353, finds that
20 the charges and allegations in Accusation No. 4353, are separately and severally, found to be true
21 and correct by clear and convincing evidence.

22 9. Taking official notice of its own internal records, pursuant to Business and
23 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
24 and Enforcement is \$3,175.00 as of September 13, 2016.

25 //

26 //

27 DETERMINATION OF ISSUES

28 1. Based on the foregoing findings of fact, Respondent has subjected his Original
Pharmacy Technician Registration, Number TCH 85822, to discipline.

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

1 3. The Board of Pharmacy is authorized to revoke Respondent's Original Pharmacy
2 Technician Registration Number TCH 85822 based upon the following violations alleged in the
3 Accusation which are supported by the evidence contained in the Default Decision Evidence
4 Packet in this case.:

- 5 a. Code section 4300(a), 4301(l), and 490, criminal conviction;
- 6 b. Code section 4300(a) and 4301(j), violation of laws regulating controlled substance
7 and dangerous drugs;
- 8 c. Code section 4300(a) and 4059.5, fraudulent order of dangerous drugs;
- 9 d. Code section 4300(a) and 4301(f), dishonest acts.

10 ORDER

11 IT IS SO ORDERED that Original Pharmacy Technician Registration, Number TCH
12 85822, heretofore issued to Respondent, 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 This Decision shall become effective at 5:00 p.m. on September 20, 2017.

18 It is so ORDERED on August 21, 2017.

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

22 

23
24 By _____

Amy Gutierrez, Pharm.D.
Board President

25
26
27 12430930.DOCX/ID:SA2012107017
Attachment:Exhibit A: Accusation

28

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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. 4353

13 **JASON DANIEL CASEY**
655 EUCALYPTUS AVENUE
14 NEWMAN, CA 95360

ACCUSATION

15 TECHNICIAN REGISTRATION NO. TCH 85822

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 **JURISDICTION**

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

26 3. The Board of Pharmacy issued Respondent Jason Daniel Casey (Respondent)
27 Original Pharmacy Technician Registration Number TCH 85822 on August 29, 2008. The
28 license expired on June 30, 2012 and has not been renewed. The license is currently cancelled.

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4. Section 4300.1 of the code states:

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

5. Section 4300 of the Code states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

(c) The board may refuse a license to any applicant guilty of unprofessional conduct.

...

(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

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:

...

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

4 ...

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

7 ...

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

27 ...

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

7. Section 4059.5 of the Code states:

(a) Except as otherwise provided in this chapter, dangerous drugs or dangerous
devices may only be ordered by an entity licensed by the board and shall be delivered
to the licensed premises and signed for and received by a pharmacist. ...

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

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Criminal Conviction)**

5 10. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
6 section 4300, subsection (a) for violating section 4301, subsection (l) and section 490 in that
7 Respondent has been convicted of the following crimes, which are substantially related to his
8 duties as a pharmacy technician, as follows:

9 a. On or about March 12, 2013, in a criminal proceeding entitled *People v. Casey, Jason*
10 *Daniel* in Stanislaus County Superior Court, Case Number 1444526, Respondent was convicted
11 on his plea of *nolo contendere* for violating Health and Safety Code section 11350(a), possession
12 of a controlled substance, a felony, and Penal Code section 211, robbery, a felony. The
13 circumstances of the crime are that on or about May 2, 2012, after having been released from jail
14 that morning, Respondent entered Kaiser Hospital pharmacy waiting area and stayed close by to
15 the 78 year-old victim, MT who was filling a prescription for pain medications for herself and her
16 husband. Once MT left the building, Respondent followed the victim and her husband to their
17 car, forcibly removed the prescription bag from MT's person, shoving her in the process, and ran
18 away.

19 b. On or about February 1, 2012, in a criminal proceeding entitled *People v. Casey,*
20 *Jason Daniel* in Stanislaus County Superior Court, Case Number 1435297, Respondent was
21 convicted on his plea of *nolo contendere* for violating Health and Safety Code section 11173(a),
22 obtaining a controlled substance by fraud, a misdemeanor. The circumstances are as follows:
23 On or about August 1, 2011, Respondent called Target Pharmacy in Turlock California and
24 falsely identified himself as a representative of Doctor's Medical Center Emergency Room. He
25 ordered a prescription for Tussionex for a patient, who was not in fact a patient at Doctor's
26 medical Center Emergency Room. The individual in whose name Respondent called the
27 prescription was his mother. On or about August 4, 2011, Respondent attempted to pick up the
28 prescription. Respondent was detained and subsequently arrested by Turlock Police Department.

1 Respondent initially denied knowing what the prescription was and later admitted that he called
2 in the prescription, that he was addicted to narcotics and that the prescription was for his own
3 personal use.

4 c. On or about October 26, 2010, in a prior criminal proceeding entitled *People v.*
5 *Casey, Jason Daniel* in Stanislaus County Superior Court, Case Number 1424520, Respondent
6 was convicted on his plea of *nolo contendere* for violating Penal Code section 496(A), receiving
7 stolen property, a misdemeanor. Respondent was placed on three years of informal probation.
8 The circumstances are that on or about October 11, 2010, Respondent willfully, unlawfully and
9 feloniously bought, received, concealed, sold, withheld, or sold property of another, knowing that
10 said property had been stolen.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Violation of Laws Regulating Controlled Substances/Dangerous Drugs)**

13 11. Respondent is subject to disciplinary action for unprofessional conduct under section
14 4300, subsection (a), for violating section 4301, subsection (j) in that Respondent violated laws
15 regulating dangerous drugs and controlled substances, as more fully set forth in paragraphs 10 (a)
16 and (b), above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Fraudulent Order of Dangerous Drugs)**

19 12. Respondent is subject to disciplinary action for unprofessional conduct under section
20 4300, subsection (a), for violating section 4059.5 in that Respondent fraudulently ordered a
21 dangerous drug without having the proper licensing authority to do so, as further set forth in
22 paragraph 10 (b).

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Dishonest Acts)**

25 13. Respondent is subject to disciplinary action for unprofessional conduct under section
26 4300, subsection (a), for violating section 4301, subsection (f) in that Respondent committed
27 dishonest acts, as further set forth in paragraphs 10 and 12, above, individually and collectively.

28 ///

1 DISCIPLINE CONSIDERATIONS

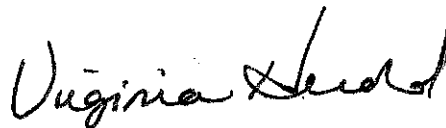
2 14. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges that on or about April 14, 2011, in a prior disciplinary action entitled *In the*
4 *Matter of the Citation and Fine Against Jason Daniel Casey* before the Board of Pharmacy, in
5 Case Number CI 201045983, Respondent's license was cited for unprofessional conduct in
6 violation of Code section 4301, subsection (f), dishonest acts, and 4301, subsection (l), criminal
7 conviction, for the following: on or about October 26, 2010, in a prior criminal proceeding
8 entitled *People v. Casey, Jason Daniel* in Stanislaus County Superior Court, Case Number
9 1424503, Respondent was convicted on his plea of *nolo contendere* for violating Penal Code
10 section 487(a), grand theft, a misdemeanor. The circumstances are that on or about October 8,
11 2010, Respondent willfully and unlawfully took the property of another of a value exceeding four
12 hundred dollars (\$400.00). The decision from the citation is now final and is incorporated by
13 reference as if fully set forth.

14 PRAYER

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

- 17 1. Revoking or suspending Technician Registration Number TCH 85822, issued to
18 Jason Daniel Casey;
- 19 2. Ordering Jason Daniel Casey to pay the Board of Pharmacy the reasonable costs of
20 the investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 5/18/16



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

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