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

In the Matter of the Accusation Against:
JENNIFER ANN HILLERMAN
2120 N. Johnson
Turlock, CA 95382
Pharmacy Technician Registration No. TCH 56977

Respondent.

Case No. 4441
OAH No. 2013120049
**DEFAULT DECISION AND
ORDER**
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 14, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4441 against Jennifer Ann Hillerman (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about June 24, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 56977 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4441 and expired on June 30, 2014. Pursuant to Business and Professions Code section 4300.1, any lapse of licensure does not deprive the [Board] of its authority to institute or continue this disciplinary proceeding.

1 3. On or about August 28, 2013, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 4441, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is:

7 2120 N. Johnson
8 Turlock, CA 95382.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about September 3, 2013, Respondent signed and returned a Notice of Defense,
13 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
14 address of record and it informed her that an administrative hearing in this matter was scheduled
15 for July 1, 2014. Respondent failed to appear at that hearing.

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

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

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

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

27 8. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 4441, finds the

1 charges and allegations in Accusation No. 4441, separately and severally, to be true and correct
2 by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable cost for Investigation
5 and Enforcement is \$1,657.50 as of June 23, 2014.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Jennifer Ann Hillerman has
8 subjected her Pharmacy Technician Registration No. TCH 56977 to discipline.

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

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

13 a. Business and Professions Code section 4301, subdivision (1) (substantially related
14 conviction);

15 b. Business and Professions Code section 4301, subdivision (h) (use of alcohol-
16 dangerous/injurious to self or others);

17 c. Business and Professions Code section 4301, subdivision (g) (false
18 statement/misrepresentation); and,

19 d. Business and Professions Code section 4301, subdivision (j) (violation of statute
20 regulating controlled substances).

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ORDER

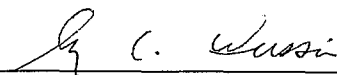
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 56977, heretofore issued to Respondent Jennifer Ann Hillerman, is revoked.

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 October 9, 2014.

It is so ORDERED September 9, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

11413407.DOC
DOJ Matter ID:SA2012108104

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
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5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-7859
Facsimile: (916) 327-8643
7 *Attorneys for Complainant.*

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

11 In the Matter of the Accusation Against:

Case No. 4441

12 **JENNIFER ANN HILLERMAN**
2120 North Johnson
13 Turlock, CA 95382

ACCUSATION

14 Pharmacy Technician Registration No. TCH 56977

15 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 24, 2004, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 56977 to Jennifer Ann Hillerman ("Respondent"). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on June 30, 2014, 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.

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4. 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.

....

"(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."

5. 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."

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:

....

"(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.

....
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2 "(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.

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

22 7. Code section 4060 states, in pertinent part:

23 "No person shall possess any controlled substance, except that furnished to a
24 person upon the prescription of a physician, dentist, podiatrist, optometrist,
25 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
26 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
27 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
28 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
subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052."

DRUG

22 8. "Marijuana" is a Schedule I controlled substance pursuant to Health and Safety
23 Code section 11054, subdivision (d).

COST OF RECOVERY

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

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FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

10. Respondent has subjected her license to disciplinary action under Code section 4301 subdivision (1) in that Respondent was convicted of crimes that are substantially related to the qualifications, functions, and duties of a pharmacy technician:

a. On or about March 7, 2012, in the case entitled *The People of the State of California v. Jennifer Ann Hillerman*, Stanislaus County Superior Court Case No. 1440879, Respondent was convicted based on her plea of guilty of violating Vehicle Code Section 23152 (b) (driving under the influence of alcohol with a BAC higher than 0.08), a misdemeanor. The circumstances of the crime are that on or about January 7, 2012, Respondent drove a vehicle while under the influence of alcohol and crashed her vehicle into a parked patrol car belonging to the CSU, Stanislaus, University Police Department. A preliminary alcohol screening test was given to Respondent at approximately 02:50 hours, resulting in BAC levels of .20 and .21.

b. On or about June 21, 2006, in the case entitled *People of the State of California v. Jennifer Ann Hillerman*, Stanislaus County Superior Court Case No. 1100215, Respondent was convicted on her plea of no contest of violating Vehicle Code 23222 (b) (Possession of Marijuana by Driver), a misdemeanor. The incident upon which Respondent's conviction is based occurred on or about November 2, 2005.

SECOND CAUSE FOR DISCIPLINE

(Use of Alcohol-Dangerous/Injurious to Self or Others)

11. Respondent has subjected her license to disciplinary action for unprofessional conduct under Code section 4301, subdivision (h), in that on or about January 7, 2012, Respondent used or consumed alcoholic beverages to an extent or in a manner as to be dangerous or injurious to herself, others, and the public, as set forth in subparagraph 8 (a) above.

THIRD CAUSE FOR DISCIPLINE

(False Statement/Misrepresentation)

12. Respondent has subjected her license to disciplinary action for unprofessional conduct under Code section 4301, subdivision (g), in that on or about June 21, 2012, Respondent

1 knowingly signed and submitted an application for renewal of her pharmacy technician
2 registration that contained false information. In response to the question as to whether she had
3 been convicted of any crime since she last renewed her license, Respondent marked "No," when
4 in fact she had been convicted, as set forth in subparagraph 8 (a).

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Violation of Statue Regulating Controlled Substance)**

7 12. Respondent has subjected her license to disciplinary action for unprofessional
8 conduct under Code section 4301, subdivision (j), in that she violated laws of this State regulating
9 controlled substances and dangerous drugs by possessing marijuana in violation of Code section
10 4060, as set forth in subparagraph 8(b) above.

11 **PRAYER**

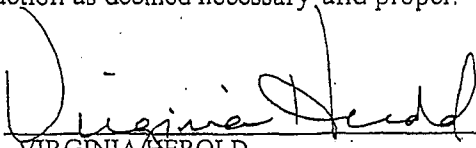
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 56977,
15 issued to Jennifer Ann Hillerman;

16 2. Ordering Jennifer Ann Hillerman to pay the Board of Pharmacy the reasonable costs
17 of the investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 125.3;

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

20
21 DATED: 8/14/13


22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

28
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