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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. 5028
JOSHUA J. RUCIANO 468 S. Eureka Ave. San Bernardino, CA 92410 Pharmacy Technician Registration No. TCH 96624	DEFAULT DECISION AND ORDER [Gov. Code, §11520]
Respondent.	

FINDINGS OF FACT

1. On or about May 3, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5028 against Joshua J. Ruciano (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about February 11, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 96624 to Respondent. The Pharmacy Technician Registration expired on August 31, 2013, and has not been renewed.

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1 3. On or about May 22, 2014, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 5028, 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 Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is:

7 468 S. Eureka Ave.
8 San Bernardino, CA 92410.

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. Government Code section 11506 states, in pertinent part:

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

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
20 5028.

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

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

26 8. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 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. 5028, finds that

1 the charges and allegations in Accusation No. 5028, are separately and severally, found to be true
2 and correct 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 costs for Investigation
5 and Enforcement is \$4,080.50 as of July 30, 2014.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Joshua J. Ruciano has subjected
8 his Pharmacy Technician Registration No. TCH 96624 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. Businesses and Professions Code section 4301, subdivision (j), for violating Health
14 and Safety Code section 11170 in that Respondent furnished a controlled substance to himself.

15 b. Business and Professions Codes section 4301, subdivision (j), for violating Health
16 and Safety Code section 11173, subdivision (a), in that Respondent obtained controlled
17 substances by fraud, deceit, misrepresentation, or subterfuge, or by concealment of a material
18 fact.

19 c. Business and Professions Code section 4301, subdivision (j), for violating Business
20 sand Professions Code section 4060 in that Respondent possessed controlled substances without a
21 prescription.

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ORDER


IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 96624, heretofore issued to Respondent Joshua J. Ruciano, 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

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Exhibit A: Accusation

Exhibit A

Accusation

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Supervising Deputy Attorney General
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Deputy Attorney General
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300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 5028

11 **JOSHUA J. RUCIANO**
12 **468 S. Eureka Avenue**
13 **San Bernardino, CA 92410**

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
96624

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Hérold (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 February 11, 2010, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 96624 to Joshua J. Ruciano (Respondent). The Pharmacy Technician
23 Registration expired on August 31, 2013 and was cancelled on December 1, 2013 pursuant to
24 Business and Professions Code section 4402, subdivision (e).

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, in pertinent part:

"(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."

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."

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:

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

1 **STATEMENT OF FACTS**

2 12. On or about December 6, 2012, Respondent and another pharmacy technician, L.T.,
3 were assigned to stock (physically deliver and place into the Pyxis machines) medications in the
4 nursing units at Arrowhead Regional Medical Center. At approximately 10:30am, L.T. removed
5 12 hydromorphone 4mg tablets from a Pyxis machine located on the 6th floor nursing unit and
6 returned them to the pharmacy. L.T. placed the drugs on a shelf located in the controlled drug
7 area. While in the pharmacy, Respondent picked up the 12 hydromorphone 4mg tablets before
8 returning to the nursing units to continue stocking.

9 13. A few hours later, pharmacist K.C., who was assigned to the controlled drug area, ran
10 a discrepancy report and identified the 12 hydromorphone 4mg tablets as missing. L.T. and K.C.
11 both independently asked Respondent if he might have accidentally picked up the
12 hydromorphone tablets and Respondent replied to each of them that he had not.

13 14. K.C. then informed her supervisor, pharmacist A.P., of the discrepancy and A.P.
14 reviewed video surveillance which showed Respondent had picked up the 12 hydromorphone
15 4mg tablets from the shelf where L.T. had placed them. A.P. then questioned Respondent if he
16 had accidentally picked up the drugs and Respondent again replied "no." A.P., along with
17 another pharmacist, then accompanied Respondent while he retraced his steps to every Pyxis
18 machine he had restocked that day. Upon returning to the pharmacy, A.P. informed Respondent
19 the he had viewed the video surveillance and saw Respondent pick up the drugs but Respondent
20 again denied taking them. Upon further questioning, Respondent started crying, admitted to
21 taking the hydromorphone, and pulled off his shoe and took out a plastic bag which had the 12
22 hydromorphone 4mg tablets in it.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct in the Commission of an Act Involving Dishonesty, Fraud, Deceit)**

25 15. Respondent is subject to disciplinary action under Business and Professions Code
26 section 4301, subdivision (f) for committing an act involving moral turpitude, dishonesty, fraud
27 or deceit in that he took and placed twelve hydromorphone 4mg tablets in his shoe as more fully

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1 described above. Complainant hereby incorporates paragraphs 12 through 14, above, as though
2 set forth fully.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct-Violation of Health and Safety Code section 11170)**

5 16. Respondent is subject to disciplinary action under Business and Professions Code
6 section 4301, subdivision (j) for violating Health and Safety Code section 11170 in that
7 Respondent furnished a controlled substance to himself when he took and placed twelve
8 hydromorphone 4mg tablets in his shoe as more fully described above.. Complainant hereby
9 incorporates paragraphs 12 through 14, above, as though set forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct-Violation of Health and Safety Code section 11173(a))**

12 17. Respondent is subject to disciplinary action under Business and Professions Code
13 section 4301, subdivision (j) for violating Health and Safety Code section 11173(a) in that
14 Respondent obtained controlled substances by fraud, deceit, misrepresentation, or subterfuge or
15 by the concealment of a material fact when he took and placed twelve hydromorphone 4mg
16 tablets in his shoe as more fully described above.. Complainant hereby incorporates paragraphs
17 12 through 14, above, as though set forth fully.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct-Unlawful Possession of a Controlled Substance)**

20 18. Respondent is subject to disciplinary action under Business and Professions Code
21 section 4301, subdivision (j) for violating Business and Professions Code section 4060 in that
22 Respondent possessed controlled substances without a prescription when he took and placed
23 twelve hydromorphone 4mg tablets in his shoe as more fully described above. Complainant
24 hereby incorporates paragraphs 12 through 14, above, as though set forth fully.

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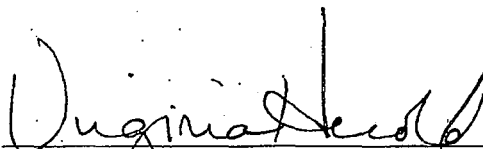
PRAYER

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 Registration Number TCH 96624, issued to Joshua J. Ruciano;
2. Ordering Joshua J. Ruciano 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

5/3/14



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

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