

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

In the Matter of the First Amended
Accusation Against:

JEREEN MISSOURI
1728 Horizon Heights Circle
El Cajon, CA 92019

**Pharmacy Technician Registration
Number TCH 130444**

Respondent.

Case No. 5126

OAH No. 2014090642

DECISION AND ORDER

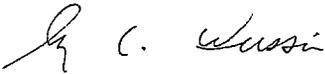
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 19, 2015.

It is so ORDERED on January 20, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

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

In the Matter of the First Amended
Accusation Against:

JEREEN MISSOURI,

Respondent.

Case No. 5126

OAH No. 2014090642

PROPOSED DECISION

Carla Nasoff, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on November 3, 2014, in San Diego, California.

Lauro Paredes, Deputy Attorney General, Department of Justice, represented Virginia Herold (complainant), Executive Officer, Board of Pharmacy, Department of Consumer Affairs, State of California (board).

Jereen Missouri (respondent) represented herself.

By stipulation, the record was left open to allow the submission of additional evidence. The matter was submitted on November 14, 2014.

FACTUAL FINDINGS

Jurisdictional Matters

1. On February 11, 2013, the board issued to respondent Pharmacy Technician Registration Number TCH 130444. Respondent's registration will expire on December 31, 2014, unless renewed or revoked.

2. On August 12, 2014, complainant signed the First Amended Accusation in her official capacity. The accusation sought to revoke or suspend respondent's pharmacy technician registration. It contained three causes for discipline: respondent possessed controlled substances without a prescription and violated statutes regulating controlled substances and dangerous drugs; she illegally possessed controlled substances in violation of

pharmacy laws; and she engaged in unprofessional conduct by having a drug-related conviction and unlawfully possessing a switchblade knife in a motor vehicle.

Criminal History

3. On December 5, 2013, in the Orange County Superior Court, case number 13HF3314, respondent pled guilty to violating Health and Safety Code section 11350, subdivision (a), unlawful possession of hydrocodone,¹ a felony; and Penal Code section 21510, subdivision (a), unlawful possession of a switchblade knife in a motor vehicle, a misdemeanor. As a result of her plea, the court deferred entry of judgment, and respondent was placed on a drug diversion program pursuant to Penal Code section 1000. The deferred entry of judgment status hearing is scheduled for June 5, 2015.

4. The circumstances of the crime were as follows: On October 21, 2013, a deputy officer with the Orange County Sheriff's Department observed respondent standing next to her vehicle that was parked at a gas station. The vehicle contained multiple television and stereo equipment boxes. The officer conducted a search of the vehicle and respondent's purse and found ten (10) tramadol hydrochloride² 50 mg tablets, two (2) hydrocodone 5 mg tablets, nine (9) Tylenol with Codeine³ 300 mg tablets, three (3) oxycodone⁴ 5 mg tablets, a stun gun and an eight-inch spring loaded switchblade knife. Respondent admitted to the officer that she did not have prescriptions for any of the drugs and was arrested. In her guilty plea, respondent admitted that she knowingly and unlawfully possessed a useable quantity of hydrocodone and unlawfully possessed a switchblade in a motor vehicle.

Deputy Sheriff Danielle Stow's Testimony

5. Danielle Stow has been a Deputy Sheriff for the past seven years. On October 21, 2013, Deputy Stow approached respondent who was standing next to a vehicle that was filled with multiple boxes filled with televisions and stereo equipment. Respondent

¹ Hydrocodone, trade name Vicodin, is a dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivisions (b)(1)(I).

² Tramadol Hydrochloride is a dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule IV controlled substance as designated by the Controlled Substance Act. It is an opioid analgesic that has an abuse potential.

³ Tylenol with Codeine is a dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivisions (b)(1)(G).

⁴ Oxycodone, trade name Percocet, is a dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivisions (b)(1)(M).

consented to a search of her vehicle and purse. Deputy Stow found multiple pills, a stun gun and an 8-inch spring loaded switchblade knife. Respondent told the deputy that she did not have a prescription for the pills and that she took them for back pain. Deputy Stow arrested respondent and prepared a report regarding her findings.⁵

Respondent's Testimony

6. In 2013, respondent received her Pharmacy Technician Certificate from Grossmont College in San Diego, California. She has never worked as a pharmacy technician. In 2013, respondent worked in telephone marketing. In October 2013, she worked for a home theater company and delivered electronic equipment. Since 2014, she has worked part-time at Kaleo Marketing as a "greeter" for special events.

7. On October 21, 2013, the deputy approached respondent at a gas station. Respondent's vehicle was filled with electronic equipment that she planned to deliver. The officer performed a search and found narcotics in her purse and a pocketknife in her vehicle. Respondent testified that her mother gave her the hydrocodone pills and her girlfriend gave her the tramadol. She could not remember where she obtained the oxycodone. Respondent testified that she did not have a prescription for any of the drugs and was arrested.

8. On December 5, 2013, respondent pled guilty to unlawful possession of hydrocodone, and unlawful possession of a switchblade knife in a motor vehicle. Respondent agreed to participate in a court-approved twelve-week drug diversion program that included random drug testing. On January 10, 2014, respondent tested positive for marijuana. Respondent testified, "I have an addiction problem. I am addicted to marijuana." She testified that the last time she used marijuana was on December 5, 2013, however, the active compound to detect the presence of marijuana was still in her system when she was drug tested.

⁵ The investigating deputy's report was received under *Lake v. Reed* (1997) 16 Cal.4th 448, which considered what hearsay evidence is admissible under Government Code section 11513 in an administrative proceeding. That opinion concluded that a law enforcement officer's direct observations that were memorialized in the officer's report were admissible under Evidence Code section 1280, the public employee records exception to the hearsay rule, and could be sufficient to support a factual finding. The opinion concluded that admissions by a party that were memorialized in the officer's report were admissible under Evidence Code section 1220 and could be sufficient to support a factual finding. Citing Government Code section 11513, the Supreme Court concluded that other hearsay statements set forth in the officer's report could be used for the purpose of supplementing or explaining other evidence but that those hearsay statements were not sufficient, by themselves, to support a factual finding unless – as with the public employees records exception to the hearsay rule and the party admission exception to the hearsay rule – the hearsay would be admissible over objection in civil actions.

9. Since January 10, 2014, respondent has attended Narcotics Anonymous (NA) meetings two to three times a week. She has a sponsor and is currently working on step two of a twelve-step program. Respondent testified that her sobriety date is February 3, 2014. According to respondent, she no longer associates with individuals who smoke marijuana. She lives with her parents, works part-time and is unable to reimburse any of the requested prosecution costs in this matter. Respondent testified, "I have never worked as a Pharmacy Tech. . . . I don't want to be tempted, so I don't plan on working as a Pharmacy Tech right now. However, I still want to keep my license."

10. Respondent understood the seriousness and gravity of her situation. She exhibited remarkable insight when she testified that she did not want to work as a Pharmacy Technician currently because she did not want to be tempted to use drugs. Her testimony was heartfelt.

Letters of Reference

11. Respondent submitted 14 letters of reference that were authored by those who knew her well. Respondent was described as serious in her commitment to sobriety and an active participant in the NA program. Respondent's NA sponsor wrote that respondent took full responsibility for her mistakes and has addressed her "shameful behaviors from her past and has been willing to do whatever is necessary to have a productive future." The letters described respondent as honest, committed to sobriety, and responsible.

Cost Recovery

12. The board filed a Certificate of Prosecution Costs seeking to recover the prosecution costs of \$3,990 pursuant to Business and Professions Code section 125.3. The amount is considered unreasonable as discussed below in paragraph 20.

LEGAL CONCLUSIONS

Applicable Statutory and Regulatory Provisions

1. Every license issued by the board may be suspended or revoked. (Bus. & Prof. Code, § 4300, subd. (a).)

2. The board may issue a pharmacy technician license to an individual if she is a high school graduate or possesses a general educational equivalent, and is certified by the Pharmacy Technician Certification Board. (Bus. & Prof. Code § 4202, subd. (a)(4).)

3. The board shall develop criteria to evaluate the rehabilitation of a person when considering suspension or revocation of a license and shall take into account all competent evidence of rehabilitation furnished by the licensee. (Bus. & Prof. Code, § 482, subd. (b).)

4. Successful completion of a diversion program or completion of a drug problem assessment program shall not prohibit the agency from taking disciplinary action against a licensee. (Bus. & Prof. Code § 492.)

5. A dangerous drug means any drug unsafe for self-use and includes any drug that by federal or state law can be lawfully dispensed only by prescription. (Bus. & Prof. Code § 4022, subd. (c).)

6. A licensee shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, naturopathic doctor, nurse practitioner or physician assistant. (Bus. & Prof. Code § 4060.)

7. The board shall take action against any holder of a license that is guilty of unprofessional conduct. Unprofessional conduct includes the violation of any state statute regulating controlled substances and dangerous drugs. Unprofessional conduct also includes violating or attempting to violate state laws and regulations governing pharmacy, including regulations established by the board. (Bus. & Prof. Code § 4301, subs. (j) & (o).)

8. Every person who possesses any controlled substance or narcotic drug shall be punished by imprisonment for not more than one year. Except in cases where it would not serve the interest of justice to do so, the court may grant probation in a felony conviction. The court shall order as a first offense a fine of at least \$1,000 or community service. (Health & Saf. Code § 11350.)

9. California Code of Regulations, title 16, section 1769, subdivision (c)(1-5), provides that the board, when considering the suspension or revocation of a personal license on the ground that the registrant has been convicted of a crime, will consider the following criteria when evaluating rehabilitation:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of . . . probation
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

//

Disciplinary Guidelines

10. The board's "Disciplinary Guidelines, A Manual of Disciplinary Guidelines and Model Disciplinary Orders" (Guidelines), provide criteria to consider in determining the appropriate level of discipline. As to pharmacy technicians, the Guidelines specifically provide, "The board believes that revocation is typically the appropriate penalty when grounds for discipline are found to exist. Grounds for discipline include, but are not limited to the following violation(s) of law(s) involving possession of dangerous drugs and controlled substances, use of dangerous drugs and or controlled substances . . . and personal misuse of drugs or alcohol." If discipline is imposed, the Guidelines require a pharmacy technician to obtain certification as defined by Business and Professions Code section 4202, subdivision (a)(4), prior to resuming work as a pharmacy technician.

Substantial Relationship

11. For the purpose of suspension or revocation of a license, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee if, to a substantial degree, it evidences present or potential unfitness of a licensee to perform the functions authorized by her license in a manner consistent with the public health, safety, or welfare. (Cal. Code Regs. tit.16, §1770.)

Respondent's conviction for possession of a controlled substance without a prescription is substantially related to the qualifications, functions and duties of a pharmacy technician because her misconduct reflects a lack of sound professional and personal judgment that is relevant to her fitness and competency to practice safely as a pharmacy technician.

Rehabilitation

12. Rehabilitation is a state of mind, and the law looks with favor upon rewarding with the opportunity to serve one who has achieved reformation and regeneration. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) As Chief Justice Lucas observed, "The amount of evidence of rehabilitation required to justify admission varies according to the seriousness of the misconduct at issue." (*Kwasnik v. State Bar, supra.*, at 1070.)

Respondent has taken the initial steps needed for rehabilitation. She acknowledged the severity of her wrongful actions. She regularly attends NA meetings designed to help her maintain her sobriety. She disassociated herself from those individuals who used illegal drugs. However, respondent failed a random drug test administered early in her diversion program and testified that she was addicted to marijuana. She candidly testified that she was not ready to work in an environment surrounded by drugs because she was concerned about

being "tempted." As a pharmacy technician, she would have access to controlled substance without direct supervision.

13. Since persons under the direct supervision of correctional authorities are required to behave in an exemplary fashion, little weight is generally placed on the fact that an applicant for a professional license did not commit additional crimes while in prison or while on parole. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.) Respondent remains under court-imposed restrictions until June 2015.

Application of Facts and Law

14. Respondent violated Business and Professions Code section 4301, subdivisions (j) and (o), and section 4060 when she possessed controlled substances and dangerous drugs without a prescription. Respondent's possession of controlled substances without a prescription evidenced her potential unfitness to work as a pharmacy technician in a manner consistent with the public health, safety or welfare. Pharmacy technicians are not independent practitioners and must work under the supervision of a pharmacist. Respondent candidly testified that she was not ready to work as a pharmacy technician because she did not want to be in an environment where she may be tempted to use drugs.

15. Cause exists to revoke respondent's pharmacy technician registration for violation of Business and Professions Code section 4301 subdivisions (o) and (j) when she knowingly possessed a useable quantity of hydrocodone without a prescription. Respondent is to be commended for her honesty and her initial efforts towards sobriety. However, public protection is paramount, and revocation of respondent's pharmacy technician registration is warranted in this matter.

Discipline Determination

16. The disciplinary process operates by eliminating pharmacy technicians where the violations involve significant misconduct on the part of the licensee. Based on the Guidelines, revocation is the recommended penalty for the illegal possession of dangerous drugs and/or controlled substances. In addition, the Guidelines require a pharmacy technician to obtain certification as defined by Business and Professions Code section 4202, subdivision (a)(4), prior to resuming work as a pharmacy technician.

17. The determination as to whether respondent's pharmacy technician registration should be revoked, suspended or placed on probation involves an evaluation of the factors contained in the California Code of Regulations and the board's Guidelines. Respondent's testimony that she was not ready to work as a pharmacy technician was significant in the conclusion to impose revocation.

18. Respondent is in the beginning phase of her rehabilitation. She is to be commended for her insight and candor; however, she has not undergone a sufficiently sustained period of successful rehabilitation to warrant any deviation from the recommended

Guidelines.

19. Respondent remains on criminal probation until June 2015. Since she is under the direct supervision of correctional authorities, little weight is placed on the fact that she has not violated any laws since December 5, 2013. It has been only one year since her conviction and less than one year since her stated sobriety date. Respondent's rehabilitation falls short of that required under the board's criteria to permit her to retain her registration, even on a probationary basis. Based on the totality of the facts and circumstances, with safety of the public being the paramount consideration, an outright revocation is appropriate in this matter.

Cost Recovery

20. Complainant seeks recovery of costs of prosecution in the amount of \$3,990. This amount is unreasonable. The accusation was based on undisputed facts and one arrest. Complainant called one witness, and the issues were straightforward. There was evidence presented that respondent was unable to pay the costs requested. Under the board's Guidelines, if the respondent's registration is revoked, payment of costs may be deferred until such time as the revoked registration is reinstated.

In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the Court held that the board must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure that the cost recovery does not deter the licensees from exercising their right to a hearing. The Court observed that a failure to exercise discretion could cause a cost recovery provision to be unconstitutional. *Zuckerman* also requires that, in accessing costs, an agency must consider whether a respondent will be financially able to make payments to reimburse the board for its costs. Respondent lives with her parents, attends NA meetings regularly and only works part-time. She testified that she does not have the financial capability to pay the full prosecution costs. Moreover, the case was not complicated and the facts were not in dispute. If respondent's registration is reinstated, as a condition precedent to reinstatement, respondent shall reimburse the board \$500.

ORDER

Pharmacy technician registration number TCH 13044 issued to respondent Jereen Missouri is revoked. Respondent shall relinquish her pharmacy technician registration to the board within ten (10) days of the effective date of this decision. Respondent may not re-apply or petition the board for reinstatement of her revoked technician registration for three (3) years from the effective date of this decision.

A condition of reinstatement shall be that the respondent be certified as defined in Business and Professions Code section 4202, subdivision (a)(4), and provide satisfactory proof of certification to the board.

If respondent's registration is reinstated, as a condition precedent to reinstatement of her revoked technician registration, respondent shall reimburse the board for its costs of prosecution in the amount of \$500. Said amount shall be paid in full prior to the reapplication or reinstatement of her revoked technician registration, unless otherwise ordered by the board.

DATED: December 15, 2014



CARLA NASOFF
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DESIRBE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 5126

13 **JEREEN MISSOURI**
1728 Horizon Heights Circle
14 El Cajon, CA 92019

**FIRST AMENDED
ACCUSATION**

15 **Pharmacy Technician Registration No. TCH 130444**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On February 11, 2013, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 130444 to Jereen Missouri, also known as Jereen Abdulwahab and
25 Jereen Hishiar Abdulwahab (Respondent). The Pharmacy Technician Registration was in full
26 force and effect at all times relevant to the charges brought herein and will expire on December
27 31, 2014, unless renewed.

28 ///

1 8. Section 4022 of the Code states

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

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

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

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

12 9. Section 4060 of the Code states

13 No person shall possess any controlled substance, except that furnished to
14 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
16 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
17 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
18 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
19 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not
20 apply to the possession of any controlled substance by a manufacturer,
21 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
22 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
23 physician assistant, when in stock in containers correctly labeled with the name
24 and address of the supplier or producer.

25 Nothing in this section authorizes a certified nurse-midwife, a nurse
26 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
27 stock of dangerous drugs and devices.

28 10. 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:

.....

(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.

....

(o) Violating or attempting to violate, directly or indirectly, or assisting in or
abetting the violation of or conspiring to violate any provision or term of this chapter
or of the applicable federal and state laws and regulations governing

1 pharmacy, including regulations established by the board or by any other state or
2 federal regulatory agency.

3
4 11. Health & Safety Code section 11350 (a) states:

5 Except as otherwise provided in this division, every person who possesses
6 (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
7 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
8 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
9 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
10 substance classified in Schedule III, IV, or V which is a narcotic drug, unless
11 upon the written prescription of a physician, dentist, podiatrist, or veterinarian
12 licensed to practice in this state, shall be punished by imprisonment pursuant to
13 subdivision (h) of Section 1170 of the Penal Code.

14 REGULATORY PROVISION

15 12. California Code of Regulations, title 16, section 1770, states:

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

23 COST RECOVERY

24 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request
25 the administrative law judge to direct a licentiate found to have committed a violation or
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
27 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
28 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
may be included in a stipulated settlement.

DRUGS

29 14. Hydrocodone is a dangerous drug pursuant to section 4022 and a Schedule II
30 controlled substance as designated by Health and Safety Code section 11055(b)(1)(I).

1 all applicable fees and fines. She completed the drug diversion program. The sentencing re:
2 Deferred Entry of Judgment Dismissal is set for June 5, 2015.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Violations of Drug Laws)**

5 20. Respondent is subject to disciplinary action under Code section 4301(j), for
6 violating statutes regulating controlled substances and dangerous drugs, including Health &
7 Safety Code section 11350(a), in that she possessed controlled substances without prescriptions,
8 as set forth in paragraphs 17 through 19, which are incorporated herein by reference.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Violations of Pharmacy Law)**

11 21. Respondent is subject to disciplinary action under Code section 4301(o) for
12 violating Pharmacy Law, in that Respondent possessed controlled substances without
13 prescriptions in violation of Code section 4060, as set forth in paragraphs 17 through 19, which
14 are incorporated herein by reference.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 22. Respondent is subject to disciplinary action under Code section 4301 for
18 unprofessional conduct in that she engaged in the activities described in paragraphs 17 through 19
19 above, which are incorporated herein by reference.

20 **PRAYER**

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

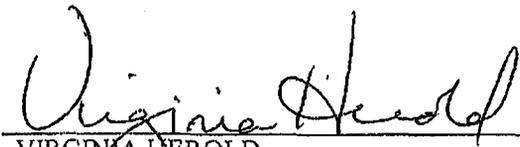
23 1. Revoking or suspending Pharmacy Technician Registration Number TCH
24 130444, issued to Jereen Missouri;

25 2. Ordering Jereen Missouri to pay the Board of Pharmacy the reasonable costs of
26 the investigation and enforcement of this case, pursuant to Business and Professions Code
27 section 125.3; and
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: 8/12/14



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

SD2014706791
70914443.docx

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 5126

13 **JEREEN MISSOURI**
1728 Horizon Heights Circle
14 El Cajon, CA 92019

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH 130444**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On February 11, 2013, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 130444 to Jereen Missouri (Respondent). Respondent has also been
24 known as Jereen Abdulwahab and Jereen Hishiar Abdulwahab. The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on December 31, 2014, unless renewed.

27 ///

28 ///

1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a), of the Code provides that every license issued by the
6 Board may be suspended or revoked.

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to
15 evaluate the rehabilitation of a person when:

- 16 (a) Considering the denial of a license by the board under Section 480; or
- 17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

20 7. Section 492 of the Code states:

21 Notwithstanding any other provision of law, successful completion of any
22 diversion program under the Penal Code, or successful completion of an alcohol
23 and drug problem assessment program under Article 5 (commencing with Section
24 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
25 any agency established under Division 2 (commencing with Section 500) of this
26 code, or any initiative act referred to in that division, from taking disciplinary
27 action against a licensee or from denying a license for professional misconduct,
28 notwithstanding that evidence of that misconduct may be recorded in a record
pertaining to an arrest. This section shall not be construed to apply to any drug
diversion program operated by any agency established under Division 2
(commencing with Section 500) of this code, or any initiative act referred to in
that division.

///

1 8. Section 4022 of the Code states

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

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

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

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

12 9. Section 4060 of the Code states

13 No person shall possess any controlled substance, except that furnished to
14 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
16 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
17 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
18 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
19 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not
20 apply to the possession of any controlled substance by a manufacturer,
21 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
22 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
23 physician assistant, when in stock in containers correctly labeled with the name
24 and address of the supplier or producer.

25 Nothing in this section authorizes a certified nurse-midwife, a nurse
26 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
27 stock of dangerous drugs and devices.

28 10. 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:

.....

(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.

.....

(o) Violating or attempting to violate, directly or indirectly, or assisting in
or abetting the violation of or conspiring to violate any provision or term of this
chapter or of the applicable federal and state laws and regulations governing

1 pharmacy, including regulations established by the board or by any other state or
2 federal regulatory agency.

3

4 11. Health & Safety Code (HSC) section 11350 states:

5 a) Except as otherwise provided in this division, every person who
6 possesses (1) any controlled substance specified in subdivision (b) or (c), or
7 paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14),
8 (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or
9 (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any
10 controlled substance classified in Schedule III, IV, or V which is a narcotic drug,
11 unless upon the written prescription of a physician, dentist, podiatrist, or
12 veterinarian licensed to practice in this state, shall be punished by imprisonment
13 pursuant to subdivision (h) of Section 1170 of the Penal Code.

14

15 REGULATORY PROVISIONS

16 12. California Code of Regulations, title 16, section 1769, states:

17

18 (b) When considering the suspension or revocation of a facility or a
19 personal license on the ground that the licensee or the registrant has been
20 convicted of a crime, the board, in evaluating the rehabilitation of such person and
21 his present eligibility for a license will consider the following criteria:

22 (1) Nature and severity of the act(s) or offense(s).

23 (2) Total criminal record.

24 (3) The time that has elapsed since commission of the act(s) or
25 offense(s).

26 (4) Whether the licensee has complied with all terms of parole,
27 probation, restitution or any other sanctions lawfully imposed against the licensee.

28 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

1 **COST RECOVERY**

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request
3 the administrative law judge to direct a licentiate found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
6 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
7 may be included in a stipulated settlement.

8 **DRUGS**

9 15. Hydrocodone is a dangerous drug pursuant to section 4022 and a Schedule II
10 controlled substance as designated by Health and Safety Code section 11055, subdivision
11 (b)(1)(I).

12 16. Oxycodone is a dangerous drug pursuant to section 4022 and a Schedule II
13 controlled substance as designated by Health and Safety Code section 11055, subdivision
14 (b)(1)(M).

15 17. Tramadol Hydrochloride is a dangerous drug pursuant to section 4022. Abuse of
16 tramadol may lead to limited physical dependence or psychological dependence.

17 18. Vicodin 300 contains 300 mg of Acetaminophen and 30 mg of Codeine
18 Phosphate. Codeine is a dangerous drug pursuant to section 4022 and a Schedule II controlled
19 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(G).

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct – Violation of Drug Laws)**

22 19. Respondent is subject to disciplinary action under Code section 4301, subdivision
23 (j) in that she violated HSC section 11350 subdivision (a), a statute of the State of California
24 regulating controlled substances. The circumstances are as follows:

25 a. On October 21, 2013, deputies from the Orange County Sheriff's
26 Department on patrol in Lake Forest, California saw Respondent standing outside her vehicle
27 that was parked in a stall at a gas station at Lake Forest Drive and Rockfield Boulevard. The
28 vehicle contained several television and stereo equipment boxes. When Respondent saw the

1 officers, she hurriedly closed the doors of her vehicle. During a consented search of
2 Respondent's vehicle, the deputies found ten tramadol hydrochloride 50 mg, two hydrocodone 5
3 mg, nine Vicodin 300 mg, three oxycodone 5mg, and a switchblade knife. Respondent did not
4 have prescription for any of the dangerous drugs. Respondent admitted to owning the
5 switchblade knife that was found during her arrest and to using the medication for her back pain.

6 b. As a result of the discovery of the medication and switchblade knife, a
7 criminal action was filed against Respondent. On December 5, 2013, in a criminal proceeding
8 entitled *The People of the State of California vs. Jereen Missouri, aka Jereen Abdulwahab, aka*
9 *Jereen Hishiar Abdulwahab*, in Orange County Superior Court, Harbor Justice Center – Newport
10 Beach Facility, Case Number 13HF3314, Respondent pled guilty to violating Health and Safety
11 Code (HSC) section 11350 subdivision (a), unlawful possession of hydrocodone, a felony, and
12 deferred entry of judgment was granted under Penal Code (PC) 1000. Respondent was required
13 to enroll by January 13, 2014, and complete an 18-month diversion program and pay fees.
14 Respondent also pled guilty to violating PC section 21510 subdivision (a), unlawful possession
15 of switch-blade knife in a motor vehicle, a misdemeanor.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Violation of Pharmacy Laws)**

18 20. Respondent is subject to disciplinary action under Code section 4301, subdivision
19 (o), in that Respondent possessed dangerous drugs and controlled substances without a
20 physician's prescription in violation of Code section 4060, as detailed in paragraph 19, above.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacy Technician Registration Number TCH
25 130444, issued to Jereen Missouri;

26 ///

27 ///

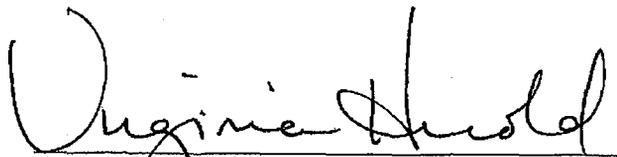
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Ordering Jereen Missouri 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: 6/14/14



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

SD2014706791
70858478.doc