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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. 5173

**RONALD ALLEN FARIA
P.O. Box 1722
San Leandro, CA 94577
Pharmacy Technician Registration No. TCH
19116**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about July 26, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 5173 against Ronald Allen Faria (Respondent) before the Board. (Accusation attached as Exhibit A.)

2. On or about May 14, 1996, the Board issued Pharmacy Technician Registration No. TCH 19116 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5173 and will expire on October 31, 2015, unless renewed.

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1 3. On or about August 5, 2014, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 5173, 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: P.O. Box 1722, San Leandro, CA 94577.

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

10 5. Government Code section 11506 states, in pertinent part:

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

16 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 5173.

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

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

24 8. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 5173, finds that
the charges and allegations in Accusation No. 5173, are separately and severally, found to be true
and correct by clear and convincing evidence.

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ORDER

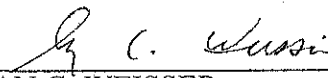
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 19116, heretofore issued to Respondent Ronald Allen Faria, is revoked.

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 February 9, 2015.

It is so ORDERED January 8, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSNER
Board President

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DOJ Matter ID:SF2014408172

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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3 ROSAILDA PEREZ
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 5173

11 **RONALD ALLEN FARIA**
12 **P.O. Box 1722**
13 **San Leandro, CA 94577**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
19116

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

21 2. On or about May 14, 1996, the Board issued Pharmacy Technician Registration
22 Number TCH 19116 to Ronald Allen Faria (Respondent). The Pharmacy Technician Registration
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 October 31, 2015, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board under the authority of the following laws.
27 All section references are to the Business and Professions Code unless otherwise indicated.

28 ///

1 4. Code section 4300 states:

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

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

6 "(1) Suspending judgment.

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

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

9 "(4) Revoking his or her license.

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

12 "...

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

18 5. Code section 4300.1 states:

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

24 STATUTORY PROVISIONS

25 6. Code section 4060 states:

26 "A person shall not possess any controlled substance, except that furnished to a person upon
27 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
28 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-

1 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
2 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
3 pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
4 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,
5 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-
6 midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with
7 the name and address of the supplier or producer.

8 "This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician
9 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

10 "

11 7. Code section 4301 of the Code states:

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

15 "...

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

21 "...

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

24 "...

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

1 "..."

2 8. Code section 4327 states:

3 " Any person who, while on duty, sells, dispenses or compounds any drug while under the
4 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor. "

5 9. Health and Safety Code section 11170 states, "No person shall prescribe, administer,
6 or furnish a controlled substance for himself."

7 DANGEROUS DRUGS/CONTROLLED SUBSTANCES

8 10. Code section 4022 states:

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

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

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

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

18 11. Marijuana is a Schedule I controlled substance as designated by Health and Safety
19 Code section 11054, subdivision (d) (13), and a dangerous drug as designated by Code section
20 4022.

21 12. Oxazepam is a Schedule IV controlled substance as designated by Health and Safety
22 Code section 11057, subdivision (d)(23), and a dangerous drug as designated by Code section
23 4022, used to treat alcohol withdrawal and anxiety.

24 13. Temazepam is a Schedule IV controlled substance as designated by Health and Safety
25 Code section 11057, subdivision (d)(29), and a dangerous drug as designated by Code section
26 4022, used to treat insomnia.

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1 COST RECOVERY

2 14. Code section 125.3 states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 FACTS

7 15. On or about October 2, 2013, Respondent was under the influence of a controlled
8 substance and dangerous drugs while on duty as a pharmacy technician for Clayworth Healthcare
9 Pharmacy in Castro Valley, California.

10 16. On or about October 7, 2013, Respondent submitted to a blood drug test at work and
11 tested positive for marijuana, oxazepam, and temazepam. Respondent did not have valid
12 prescriptions for these drugs or a medical marijuana card.

13 FIRST CAUSE FOR DISCIPLINE

14 (Compounding While Under the Influence of Drugs or Alcohol)

15 17. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)
16 and/or (o), and/or section 4327 in that he compounded drugs while under the influence of a
17 dangerous drug and/or alcohol, as set forth in paragraph 15, above.

18 SECOND CAUSE FOR DISCIPLINE

19 (Self-Administration of Controlled Substance)

20 18. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),
21 and/or Health and Safety Code section 11170, in that Respondent administered to himself
22 controlled substances, as set forth in paragraphs 15 and 16, above.

23 THIRD CAUSE FOR DISCIPLINE

24 (Unlawful Possession of Controlled Substance)

25 19. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)
26 and/or (o), and/or section 4060, in that he tested positive for marijuana, oxazepam, and
27 temazepam without possessing valid prescriptions, as set forth in paragraph 16, above.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

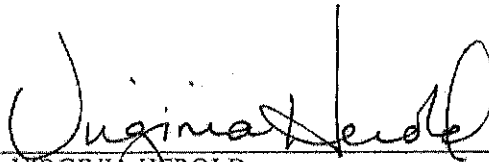
3 20. Respondent is subject to disciplinary action under Code section 4301, in that he acted
4 unprofessionally, as set forth in paragraphs 15 and 16, above.

5 PRAYER

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

- 8 1. Revoking or suspending Pharmacy Technician Registration Number TCH 19116,
9 issued to Ronald Allen Faria;
- 10 2. Ordering Ronald Allen Faria to pay the Board of Pharmacy the reasonable costs of the
11 investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3;
- 13 3. Taking such other and further action as deemed necessary and proper.

14
15
16 DATED: 7/26/14



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

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