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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **KENNETH H. SILLIGMAN**  
570 Allisha Lane  
Tracy, CA 95376

14 **Pharmacy Technician Registration**  
15 **No. TCH 11724**

16 Respondent.

Case No. 5765

OAH No. 2017020495

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

17  
18 **FINDINGS OF FACT**

19 1. On or about November 7, 2016, Complainant Virginia K. Herold, in her official  
20 capacity as the Executive Officer of the California State Board of Pharmacy, filed Accusation No.  
21 5765 against Kenneth H. Silligman (Respondent) before the Board of Pharmacy. (Accusation  
22 attached as Exhibit A.)

23 2. On or about February 10, 1994, the Board issued Pharmacy Technician Registration  
24 Number TCH 11724 to Kenneth H. Silligman ("Respondent"). 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 May 31, 2017, unless renewed.

27 3. On or about November 7, 2016, Respondent was served by First Class Mail copies of  
28 the Accusation No. 5765, Statement to Respondent, Notice of Defense, Request for Discovery,

1 and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
2 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
3 is required to be reported and maintained with the Board. Respondent's address of record was  
4 and is:

5 570 Alisha Lane  
6 Tracy, CA 95376

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. On or about November 21, 2016, Respondent signed and returned a Notice of  
11 Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at  
12 Respondent's address of record and it informed him that an administrative hearing in this matter  
13 was scheduled for March 16, 2017. Respondent failed to appear at that hearing.

14 6. Government Code section 11506(c) states, in pertinent part:

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

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

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

25 8. Pursuant to its authority under Government Code section 11520, the Board of  
26 Pharmacy finds Respondent is in default. The Board of Pharmacy will take action without further  
27 hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in  
28 this matter, as well as taking official notice of all the investigatory reports, exhibits and  
statements contained therein on file at the Board of Pharmacy offices regarding the allegations  
contained in Accusation No. 5765, finds that the charges and allegations in Accusation No. 5765,  
are separately and severally, found to be true and correct by clear and convincing evidence.





# Exhibit A

Accusation

1 KAMALA D. HARRIS  
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8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
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11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 5765

12 **KENNETH H. SILLIGMAN**  
13 570 Allisha Lane  
Tracy, CA 95376

**ACCUSATION**

14 **Pharmacy Technician Registration**  
15 **No. TCH 11724**

16 Respondent.

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 **Pharmacy Technician Registration**

22 2. On or about February 10, 1994, the Board issued Pharmacy Technician Registration  
23 Number TCH 11724 to Kenneth H. Silligman ("Respondent"). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on May 31, 2017, unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:

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

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

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

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

7 (4) Revoking his or her license.

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

10 4. Code section 4300.1 states:

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

#### 17 STATUTORY PROVISIONS

18 5. Code section 4301 states, in pertinent part:

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

23 (g) Knowingly making or signing any certificate or other document that falsely  
24 represents the existence or nonexistence of a state of facts.

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

28 (l) The conviction of a crime substantially related to the qualifications,  
functions, and duties of a licensee under this chapter. The record of conviction of a  
violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
States Code regulating controlled substances or of a violation of the statutes of this  
state regulating controlled substances or dangerous drugs shall be conclusive  
evidence of unprofessional conduct. In all other cases, the record of conviction shall  
be conclusive evidence only of the fact that the conviction occurred. The board may  
inquire into the circumstances surrounding the commission of the crime, in order to  
fix the degree of discipline or, in the case of a conviction not involving controlled  
substances or dangerous drugs, to determine if the conviction is of an offense  
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  
contendere is deemed to be a conviction within the meaning of this provision. The

1 board may take action when the time for appeal has elapsed, or the judgment of  
2 conviction has been affirmed on appeal or when an order granting probation is made  
3 suspending the imposition of sentence, irrespective of a subsequent order under  
4 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
5 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
6 dismissing the accusation, information, or indictment.

7 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 (Criminal Conviction)

16 7. Respondent is subject to disciplinary action pursuant to Code section 4301(l), on the  
17 grounds of unprofessional conduct, in that Respondent committed crimes substantially related to  
18 the qualifications, functions, and duties of a licensed pharmacy technician. Specifically, on or  
19 about April 10, 2015, in a criminal proceeding entitled *People v. Kenneth Silligman*, Superior  
20 Court of California, County of San Joaquin, Manteca Branch, Case No. MM129356A,  
21 Respondent was convicted by the court on his plea of nolo contendere to violating Penal Code  
22 section 647(a) (engaging in lewd conduct), a misdemeanor. The circumstance of the crime is that  
23 on or about March 24, 2014, Respondent removed all of his clothing while out-of-doors and  
24 within the perimeter of his residence, thereby exposing himself to children who were playing next  
25 door and another individual.

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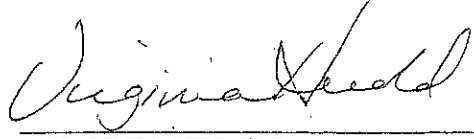




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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/27/16



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

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