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

10
11 In the Matter of the Accusation Against:

Case No. 3321

12 **GIANNA FRANCES URQUIDI**
13 **9721 E. Olney St.**
Rosemead, CA 91770
14 **Pharmacy Technician Registration**
No. TCH 45225

A C C U S A T I O N

15 Respondent.

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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 (Board), Department of Consumer Affairs.

21 2. On or about November 20, 2002, the Board issued Pharmacy Technician Registration
22 Number TCH 45225 to Gianna Frances Urquidi (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on November 30, 2010, unless renewed.

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JURISDICTION

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

4. Section 492 of the Code states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, 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."

5. 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.

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1 6. Section 4301 of the Code states:

2 "The board shall take action against any holder of a license who is guilty of unprofessional
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

4 Unprofessional conduct shall include, but is not limited to, any of the following:

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

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

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

19 7. Section 4060 of the Code states:

20 "No person shall possess any controlled substance, except that furnished
21 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
22 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
23 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
24 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
25 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
26 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
27 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
28 shall not apply to the possession of any controlled substance by a manufacturer,
 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
 physician assistant, when in stock in containers correctly labeled with the name and
 address of the supplier or producer.

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1 8. Health and Safety Code section 11377, subsection (a), stated, in pertinent part:

2 Except as authorized by law and as otherwise provided in subdivision (b)
3 or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
4 Division 2 of the Business and Professions Code, every person who possesses any
5 controlled substance which is (1) classified in Schedule III, IV, or V, and which is not
6 a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs
7 (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of
8 subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision
9 (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055,
10 unless upon the prescription of a physician, dentist, podiatrist, or veterinarian,
11 licensed to practice in this state, shall be punished by imprisonment in a county jail
12 for a period of not more than one year or in the state prison.

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

17 **CONTROLLED SUBSTANCE**

18 10. Methamphetamine is a Schedule II controlled substance as defined in Health and
19 Safety Code section 11055, subdivision (d)(2), and is characterized as a dangerous drug pursuant
20 to section 4022 of the Code

21 **FIRST CAUSE FOR DISCIPLINE**

22 (Unprofessional Conduct – Possession of Controlled Substance)

23 11. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
24 (o), in that Respondent possessed a controlled substance, Methamphetamine, in violation of
25 section 4060 of the Code and Health and Safety Code section 11377, subdivision (a). The
26 circumstances are as follows:

27 a. On or about August 9, 2006, Respondent was the driver of a vehicle blocking a
28 roadway. During a routine traffic stop, an El Monte Police Department Officer found Respondent
in possession of Methamphetamine. Respondent later admitted to possessing the
Methamphetamine.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Use of Controlled Substance)

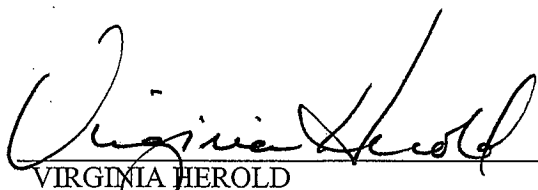
3 12. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
4 that Respondent administered herself a controlled substance, Methamphetamine, to an extent that
5 the use impairs her ability to conduct with safety to the public the practice authorized by her
6 pharmacy technician registration. During the incident discussed in paragraph 11, above,
7 Respondent admitted using Methamphetamine for approximately six (6) years; and also having
8 used Methamphetamine on a daily basis during the month preceding August 9, 2006.

9 PRAYER

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

- 12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 45225,
13 issued to Gianna Frances Urquidi;
- 14 2. Ordering Gianna Frances Urquidi to pay the Board of Pharmacy the reasonable costs
15 of the investigation and enforcement of this case, pursuant to Business and Professions Code
16 section 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.

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19
20 DATED: 10/5/09


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

25 LA2009602914
26 accusation.rtf