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

In the Matter of the Accusation Against: **SHREEN NAAZ HUSSEIN** **P.O. Box 59** **Mt. Eden, CA 94557** **Pharmacy Technician Registration No. TCH 50453** Respondent.	Case No. 3395 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about August 12, 2003, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 50453 to Shreen Naaz Hussein (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 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 (Code) unless otherwise indicated.

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

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

6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the Board if not renewed within 60 days after its expiration, and any license canceled in this fashion may not be reissued but will instead require a new application to seek reissuance.

STATUTORY AND REGULATORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be 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.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or

to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

(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.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

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

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

9. 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."

10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.

11. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

12. Health and Safety Code section 11364, in pertinent part, makes it unlawful to possess an opium pipe or other paraphernalia used to inject or smoke controlled substances.

13. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess any controlled substance in Schedule II, subdivision (d), without a prescription.

14. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any person to use or be under the influence of any controlled substance in Schedule II (Health and Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules III-V, except when administered by or under the direction of an authorized licensee.

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

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

16. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

17. Section 4022 of the Code states, in pertinent part:

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, and includes the following:

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

. . .

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

18. **Methamphetamine** is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions Code section 4022. It is a stimulant drug.

FACTUAL BACKGROUND

19. On or about April 21, 2007, at approximately 3:50 p.m., Respondent drove her car into the Hayward Police Station parking lot and called the station. Respondent told the dispatcher

that four cars had followed her to the station and one of the four cars was in the police station parking lot. Respondent gave the dispatcher the license plate number of the car Respondent said was following her. The dispatcher recognized the license plate as her [the dispatcher's] own car that had been parked in the lot all day. Police officers met Respondent in the police parking lot.

The responding officers encountered Respondent and observed several objective signs and symptoms of being under the influence of a stimulant; pupils dilated 7.5 mm in good light, hands trembling, burn marks on her lips, fingertips discolored brown, speech rapid and confusing, pulse rate to 128 BPM and Respondent was paranoid and warm to the touch despite the cold wet weather. Respondent consented to a search of her purse, which uncovered a baggie with a white crystal substance, confirmed by testing as **methamphetamine**, and a glass smoking pipe with white powder residue in the stem and a burnt bulbed tip.

Respondent admitted that she smoked ,"six" puffs of **methamphetamine** that morning. Respondent also admitted to the officer that she had been using **methamphetamine** for a month.

Respondent was placed under arrest on suspicion of violating Vehicle Code section 23152(a), (Driving Under the Influence), Health and Safety Code section 11550 (Use/Being Under Influence of Controlled Substance), Health and Safety Code section 11377(a) (Possession of a Controlled Substance), and Health and Safety Code section 11364 (Possession of Drug Paraphernalia)

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

20. Respondent is subject to discipline under section 4301(f) of the Code in that Respondent, as described in paragraph 19 above, committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

SECOND CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substance)

21. Respondent is subject to discipline under section 4301(h) of the Code, in that Respondent, as described in paragraph 19 above, administered a controlled substance to herself in a manner dangerous or injurious to herself or another.

THIRD CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

22. Respondent is subject to discipline under section 4301(l) and/or section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of substantially related crime(s), in that on or about July 24, 2007, in a criminal case titled *People v. Shreen Naaz Hussein*, Case No. 401949 in Alameda County Superior Court, based on the conduct alleged in paragraph 19 above, Respondent was convicted, by her plea of no contest, of violating Vehicle 23152(a) (Driving Under the Influence), a misdemeanor. Imposition of sentence was suspended in favor of a period of formal probation of 36 months, with terms and conditions, 6 days in jail and a fine of $1760.00.

FOURTH CAUSE FOR DISCIPLINE

(Possession of Controlled Substance)

23. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described in paragraph 19 above, possessed, conspired to possess, and/or assisted in or abetted possession of, a controlled substance, without a prescription.

FIFTH CAUSE FOR DISCIPLINE

(Possession of Controlled Substance)

24. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in paragraph 19 above, self-administered/used, conspired to self-administer/use, and/or assisted in/abetted self-administration/use, of a controlled substance, without prescription.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

25. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 19-24 above, engaged in unprofessional conduct.

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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 50453, issued to Shreen Naaz Hussein.

2. Ordering Shreen Naaz Hussein 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;

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

DATED: 9/24/09

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

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