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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3964

11 **CAROL ANN DUNN**
12 **160 Shady Lane**
13 **Boulder Creek, CA 95006**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 34054**

15 Respondent.

16
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, Department of Consumer Affairs.

21 2. On or about July 28, 2000, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 34054 to Carol Ann Dunn (Respondent). The Pharmacy Technician
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on November 30, 2011, unless renewed.

25 JURISDICTION

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

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

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

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

15 STATUTORY PROVISIONS

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

19 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
20 drug or alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself,
21 to any other person or to the public, or to the extent that the use impairs the ability of the person
22 to conduct with safety to the public the practice authorized by the license.

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

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
28 the board or by any other state or federal regulatory agency.

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

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

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

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

11 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation of the licensing
13 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

14 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

15 14. Section 4021 of the Code states:

16 “Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
17 11053) of Division 10 of the Health and Safety Code.”

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

19 “Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
20 except veterinary drugs that are labeled as such, and includes the following:

21 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
22 prescription,’ ‘Rx only,’ or words of similar import.

23 ...

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

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

1 FACTUAL BACKGROUND

2 17. On or about August 2, 2010, Respondent was contacted in her residence by officers
3 from the Santa Cruz County Sheriff's Office who had received a tip that Respondent was selling
4 **methamphetamine**. Respondent exhibited signs of being under the influence of a controlled
5 substance. After initially denying it, Respondent admitted to having used **methamphetamine**
6 earlier in the day. Her urine also tested positive for **methamphetamine**. A search of her purse
7 discovered a bindle of **methamphetamine** weighing approximately 0.5 grams.

8 FIRST CAUSE FOR DISCIPLINE

9 (Self-Administration of Controlled Substance)

10 18. Respondent is subject to discipline under section 4301(h) of the Code, in that
11 Respondent, as described in paragraph 17 above, self-administered **methamphetamine**, a
12 controlled substance, on or about August 2, 2010.

13 SECOND CAUSE FOR DISCIPLINE

14 (Possession of Controlled Substance)

15 19. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
16 4060 of the Code, and/or Health and Safety Code section 11377 in that Respondent, as described
17 in paragraph 17 above, possessed, conspired to possess, and/or assisted in or abetted possession of
18 **methamphetamine**, a controlled substance, without a prescription.

19 THIRD CAUSE FOR DISCIPLINE

20 (Self-Administration/Use of Controlled Substance)

21 21. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
22 and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in
23 paragraph 17 above, self-administered/used, conspired to self-administer/use, and/or assisted
24 in/abetted self-administration/use of a controlled substance, without prescription.

25 FOURTH CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct)

27 22. Respondent is subject to discipline under section 4301 of the Code in that
28 Respondent, as described in paragraphs 17-21 above, engaged in unprofessional conduct.

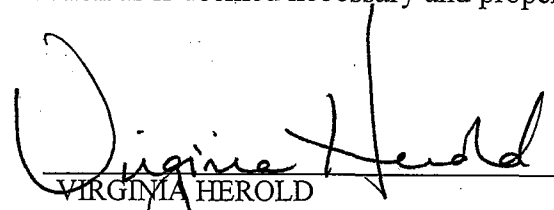
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PRAYER

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 License Number TCH 34054, issued to Carol Ann Dunn (Respondent);
2. Ordering Respondent to pay the Board 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 is deemed necessary and proper.

DATED: 7/14/11



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

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