

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 CHRISTINA THOMAS  
Deputy Attorney General  
4 State Bar No. 171168  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2557  
6 Facsimile: (213) 897-2804

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 **MARIA ELENA SANTOS**  
**a.k.a., MARIA ELENA ANDRES**  
335 N. Vendome Street  
Los Angeles, CA 90026  
14  
15 Pharmacy Technician Registration  
No. TCH 25616

Case No. 4113

**A C C U S A T I O N**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about April 27, 1998, the Board of Pharmacy issued Pharmacy Technician  
23 Registration No. TCH 25616 to Maria Elena Santos, aka Maria Elena Andres (Respondent). The  
24 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
25 brought herein and it will expire on August 31, 2013, unless renewed.

26 **JURISDICTION**

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

**STATUTORY PROVISIONS**

1  
2       4.     Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license  
3 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period  
4 within which the license may be renewed, restored, reissued or reinstated.

5       5.     Section 4060 states, in pertinent part:

6       “No person shall possess any controlled substance, except that furnished to a person upon  
7 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
8 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
9 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician  
10 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
11 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the  
12 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,  
13 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-  
14 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled  
15 with the name and address of the supplier or producer.”

16       6.     Section 4300 provides, in pertinent part, that every license issued by the Board is  
17 subject to discipline, including suspension or revocation.

18       7.     Section 4301 states, in pertinent part:

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

22       .....

23       “(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
24 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
25 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
26 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
27 practice authorized by the license.

28       .....

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

3       .....

4       “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
5 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
6 federal and state laws and regulations governing pharmacy, including regulations established by  
7 the board or by any other state or federal regulatory agency.”

8       8. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

9       “No person shall use, or be under the influence of any controlled substance which is (1)  
10 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,  
11 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified  
12 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)  
13 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in  
14 Schedule III, IV, or V, except when administered by or under the direction of a person licensed  
15 by the state to dispense, prescribe, or administer controlled substances.”

16                                     **COST RECOVERY**

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

21       10. **CONTROLLED SUBSTANCE**

22       “Methamphetamine,” is a Schedule II controlled substance as designated by Health and  
23 Safety Code section 11055, subdivision (d) (2) and is categorized as a dangerous drug pursuant to  
24 section 4022.

25                                     **FIRST CAUSE FOR DISCIPLINE**

26                                     **(Illegal Possession of a Controlled Substance)**

27       11. Respondent is subject to disciplinary action under sections 4301, subdivisions (j) and  
28 (o), for violating section 4060, in that Respondent was found to be in illegal possession of a

1 controlled substance. On or about November 2, 2010, during a traffic stop by the Riverside  
2 County Sheriff's Department, the officer observed Respondent to have dilated pupils and a slow  
3 reaction to the officer's flashlight. Through training and experience of the officer, Respondent  
4 showed objective symptoms of being under the influence of a central nervous stimulant, such as  
5 twitching and rapid speech. The officer conducted an initial evaluation of Respondent and found  
6 her to have excessive eye-lid flutter, a white chalky mouth, and a pulse rate of 112bpm, which  
7 was well above the normal pulse rate of 60 to 90bpm. When asked when was the last time she  
8 used illegal drugs, Respondent admitted that she had smoked Methamphetamine in the vehicle.  
9 In addition, Respondent admitted that she had used Methamphetamine for several months.  
10 Additionally, Respondent admitted that the Methamphetamine and the pipes belonged to her. She  
11 was subsequently arrested for violating Health and Safety Code section 11377, subdivision (a)  
12 [possession of a controlled substance], Health and Safety Code section 11550, subdivision (a)  
13 [under the influence of a controlled substance], and Health and Safety Code section 11364  
14 [possession of drug paraphernalia].

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Use/Under Influence of a Controlled Substance)**

17 12. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and  
18 (j), in that on or about November 2, 2010, Respondent, by her own admission, used and/or was  
19 under the influence of a controlled substance. Complainant refers to, and by this reference  
20 incorporates, the allegations set forth above in paragraph 11, as though set forth in full.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
23 and that following the hearing, the Board issue a decision:

24 1. Revoking or suspending Pharmacy Technician Registration No. TCH 25616, issued  
25 to Respondent;

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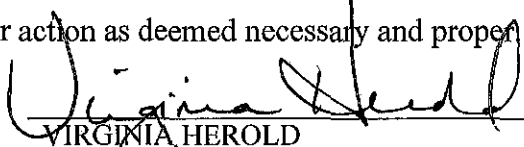
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2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and,

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

DATED: 3/1/13



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

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