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

10 In the Matter of the Accusation Against:

Case No. 4283

11 **KELLY JOANNE O'CONNOR**
12 38745 3rd Street E.
13 Palmdale, CA 93550

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH
37039

15 Respondent.

16
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 March 27, 2011, the Board issued Pharmacy Technician Registration No....
23 TCH 37039 to Kelly Joanne O'Connor ("Respondent"). The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 January 31, 2015, 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

4. Section 492 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 4060 states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section 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.

"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices."

1 classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision
2 (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified
3 in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of
4 subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055,
5 unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice
6 in this state, shall be punished by imprisonment in a county jail for a period of not more than one
7 year or in the state prison.”

8 COST RECOVERY

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

13 FIRST CAUSE FOR DISCIPLINE

14 (Possession of a Controlled Substance)

15 12. Respondent's license is subject to disciplinary action under section 4300 and section
16 4301, subdivision (j), in conjunction with section 4060, on the grounds of unprofessional conduct,
17 in that on or about October 13, 2011, Respondent was found to be in possession of the controlled
18 substance and dangerous drug methamphetamine, without a valid prescription. On or about
19 October 13, 2011, a Los Angeles Sheriff's Officer conducted a routine traffic stop of
20 Respondent's vehicle. During the traffic stop Respondent admitted that there was
21 methamphetamine inside her purse, she also admitted there was more methamphetamine in her
22 bedroom. Officers found two small bags of methamphetamine inside Respondent's purse and
23 during a later search of Respondent's bedroom found an additional small bag of
24 methamphetamine inside Respondent's dresser.

25 SECOND CAUSE FOR DISCIPLINE

26 (Violating Drug Statutes)

27 13. Respondent's license is subject to disciplinary action under section 4300 and section
28 4301, subdivision (j), for violating Health and Safety Code section 11377, subdivision (a), for

1 possessing the controlled substance methamphetamine. Complainant refers to, and by this
2 reference incorporates, the allegations set forth above in paragraph 12 as though set forth fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Violating Provisions of the Pharmacy Law)**

5 14. Respondent's license is subject to disciplinary action under sections 4300 and 4301,
6 subdivision (o), for violating provisions of the Pharmacy Law [§ 4000, et seq.]. Complainant
7 refers to, and by this reference incorporates, the allegations set forth above in paragraph 12 as
8 though set forth fully.

9 **PRAYER**

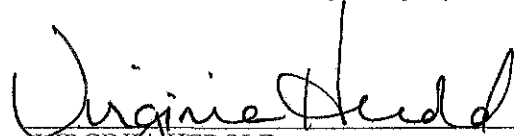
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board issue a decision:

12 1. Revoking or suspending Pharmacy Technician Registration No. TCH 37039, issued
13 to Kelly J. O'Connor;

14 2. Ordering Kelly J. O'Connor to pay the Board the reasonable costs of the investigation
15 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

17
18 DATED: 7/22/13


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

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