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

11 In the Matter of the Accusation Against:

Case No. 4399

12 **TANYA ELISE ARMSTRONG**
7113 Victoria Ave
13 Highland, CA 92346

A C C U S A T I O N

[Gov. Code, § 11503.]

14 **Pharmacy Technician Registration No. TCH**
15 **61344**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Complainant Virginia K. Herold brings this Accusation solely in her official capacity
20 as the Executive Officer of the California State Board of Pharmacy, an agency under the
21 Department of Consumer Affairs.

22 2. On March 3, 2005, the Board issued Pharmacy Technician Registration Number TCH
23 61344 to Respondent Tanya Elise Armstrong. The Pharmacy Technician Registration was in full
24 force and effect at all times relevant to the charges brought herein and expired on October 31,
25 2012. The Board cancelled the license on February 3, 2013 for non-renewal. Notwithstanding
26 the cancellation of the license, the Board has jurisdiction to proceed under Business and
27 Professions Code sections 4300, subdivision (a), and 4300.1.

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1 **JURISDICTION**

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

4 4. Section 118, subdivision (b), states, in relevant part, that the suspension, expiration,
5 surrender or cancellation of a license does not deprive the Board of jurisdiction to proceed with a
6 disciplinary action during the period within which the license may be renewed, restored, reissued
7 or reinstated.

8 5. Section 4300 of the Code states, in relevant part, that the Board may suspend or
9 revoke any license it has issued. Section 4300 also states that proceedings to suspend or revoke a
10 license must be conducted in accordance with the Administrative Procedure Act, beginning with
11 Government Code section 11500.

12 6. Section 4300.1 of the Code states:

13 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
14 operation of law or by order or decision of the board or a court of law, the placement of a license
15 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
16 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
17 proceeding against, the licensee or to render a decision suspending or revoking the license."

18 **STATUTORY PROVISIONS**

19 7. Section 4022 states, in relevant part, that a "dangerous drug" or "dangerous device" is
20 any drug or device that is unsafe for self-use in humans or animals and includes prescription
21 drugs.

22 8. Section 4301 of the Code states in relevant part:

23 "The board shall take action against any holder of a license who is guilty of unprofessional
24 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
25 Unprofessional conduct shall include, but is not limited to, any of the following:

26 ...

27 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

4 . . .

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

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

11 (p) Actions or conduct that would have warranted denial of a license.

12 9. Health and Safety Code section 11007 states:

13 "Controlled substance," unless otherwise specified, means a drug, substance, or immediate
14 precursor which is listed in any schedule in Section 11054, 11055, 11056, 11057, or 11058."

15 10. Health and Safety Code section 11352 states, in relevant part:

16 "(a) Except as otherwise provided in this division, every person who...administers...(1)
17 any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision
18 (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section
19 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of
20 Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a
21 narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
22 veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to
23 subdivision (h) of Section 1170 of the Penal Code for three, four, or five years.

24 (b) Notwithstanding the penalty provisions of subdivision (a), any person who transports
25 for sale any controlled substances specified in subdivision (a) within this state from one county to
26 another noncontiguous county shall be punished by imprisonment pursuant to subdivision (h) of
27 Section 1170 of the Penal Code for three, six, or nine years."

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1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1770, states:

3 “For the purpose of denial, suspension, or revocation of a personal or facility license
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
7 licensee or registrant to perform the functions authorized by his license or registration in a manner
8 consistent with the public health, safety, or welfare.”

9 **COST RECOVERY**

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

14 **DRUG CLASSIFICATIONS**

15 13. Marijuana is a Schedule I controlled substance and a dangerous drug. (Health & Saf.
16 Code, § 11054, subd. (d)(13); Bus. & Prof. Code, § 4022.)

17 14. Methamphetamine is a Schedule II controlled substance and a dangerous drug.
18 (Health & Saf. Code, § 11055, subd. (d)(2).)

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct—Marijuana and Methamphetamine Use)**

21 15. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
22 conjunction with California Code of Regulations, title 16, section 1770, for unprofessional
23 conduct in that Respondent illegally used marijuana and methamphetamine and used said
24 substances in a manner and to an extent as to be dangerous or injurious to herself and to the
25 public.

26 16. On Friday, April 1, 2011, Respondent was stopped at a DUI checkpoint at Redlands
27 Boulevard and Curtis Street in Loma Linda. A San Bernardino County Sheriff’s officer noted that
28 Respondent looked nervous and avoided eye contact with him. The officer questioned

1 Respondent about her use of drugs and Respondent replied that she smoked marijuana shortly
2 before the stop. The officer ordered Respondent out of the car to better evaluate her physical
3 condition. Respondent's eyes fluttered and the officer saw a white coating on Respondent's
4 tongue. Respondent's pulse was 112 beats per minute. The officer voiced his suspicion that
5 Respondent had recently used methamphetamine. After first denying the charge, Respondent
6 admitted that she smoked methamphetamine earlier in the day. Respondent submitted to a blood
7 test, which returned positive for amphetamines and cannabinoids.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Violation of State Law Regulating Marijuana and Methamphetamine)**

10 17. Respondent is subject to disciplinary action under section 4301, subdivision (j), in
11 conjunction with California Code of Regulations, title 16, section 1770, for unprofessional
12 conduct in that Respondent violated State statutes regulating controlled substances and dangerous
13 drugs. In particular, Respondent self-administered marijuana and methamphetamine in
14 contravention of Health and Safety Code sections 11007 and 11352. Complainant realleges
15 paragraphs 15–16.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Violation of Pharmacy Law)**

18 18. Respondent is subject to disciplinary action under section 4301, subdivision (o), in
19 conjunction with California Code of Regulations, title 16, section 1770, for unprofessional
20 conduct in that Respondent violated provisions of the Pharmacy Law. Complainant realleges
21 paragraphs 15–17.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Commission of Acts That Would Have Warranted Denial of Licensure)**

24 19. Respondent is subject to disciplinary action under section 4301, subdivision (p), in
25 conjunction with California Code of Regulations, title 16, section 1770, for unprofessional
26 conduct in that Respondent committed acts that, if committed by an applicant, would have
27 warranted denial of licensure. Complainant realleges paragraphs 15–18.

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1 PRAYER

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

4 1. Revoking or suspending Pharmacy Technician Registration Number TCH 61344,
5 issued to Tanya Elise Armstrong;

6 2. Ordering Tanya Elise Armstrong to pay the Board the reasonable costs of the
7 investigation and enforcement of this case, pursuant to Business and Professions Code section
8 125.3; and

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

10
11
12 DATED: _____

12/6/13



13 VIRGINIA K. HEROLD
14 Executive Officer
15 California State Board of Pharmacy
16 State of California
17 Complainant

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