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

11 In the Matter of the Accusation Against:

Case No. 4710

12 **BHAVANA S. MAHABALI**
13 **143 Fagundes Street**
Hayward, CA 94544

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
15 **25967**

16 Respondent.

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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 (Board), Department of Consumer Affairs.

22 2. On or about June 5, 1998, the Board issued Pharmacy Technician Registration
23 Number TCH 25967 to Bhavana S. Mahabali (Respondent). The Pharmacy Technician
24 Registration expired on May 31, 2013, and has not been renewed.

25 **JURISDICTION**

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

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4. Section 4300 of the Code states:

“(a) Every license issued may be suspended or revoked.

“(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

“(1) Suspending judgment.

“(2) Placing him or her upon probation.

“(3) Suspending his or her right to practice for a period not exceeding one year.

“(4) Revoking his or her license.

“(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

...

“(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.”

5. Section 4300.1 of the Code states:

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

STATUTORY PROVISIONS

6. Section 4301 of the Code provides in relevant part:

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

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“(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.

...”

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

COSTS

8. 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.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Use of a Controlled Substance and Dangerous Drug)

9. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (h) of the Code in that she administered a controlled substance to herself and used a dangerous drug in a dangerous manner. The circumstances of Respondent’s conduct are as follows:

a. On or about November 23, 2012, the vehicle in which Respondent was traveling was pulled over in Fremont, California. Respondent was subsequently arrested. During a search of Respondent’s purse incident to her arrest, a police officer located in the purse a small plastic baggie containing a white crystal-like residue. The officer, based on his training and experience, suspected the substance in the baggie to be methamphetamine.

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1 b. Shortly after Respondent's arrest, a police officer performed a drug evaluation on
2 Respondent. Based on the results of the drug evaluation, the officer determined that Respondent
3 was under the influence of a stimulant.

4 c. Shortly after her arrest, Respondent told a police officer that she had recently used
5 methamphetamine.

6 d. Shortly after her arrest, Respondent provided a urine sample. The urine sample was
7 tested, and the results of the test indicate that Respondent tested positive for methamphetamine.

8 **PRAYER**

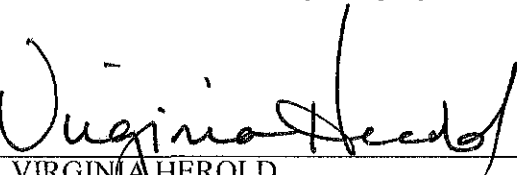
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Pharmacy issue a decision:

11 1. Revoking or suspending Pharmacy Technician Registration Number TCH 25967
12 issued to Bhavana S. Mahabali;

13 2. Ordering Bhavana S. Mahabali to pay the Board of Pharmacy the reasonable costs of
14 the investigation and enforcement of this case pursuant to Business and Professions Code section
15 125.3;

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

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19 DATED: 2/19/14



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

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