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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. 4825

12 **CHONG LEE**  
13 **5479 E. Washington Avenue**  
**Fresno, CA 93727**

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
15 **111957**

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, Department of Consumer Affairs.

22 2. On or about April 4, 2011, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 111957 to Chong Lee (Respondent). The Pharmacy Technician  
24 Registration expired on January 31, 2013, and has not been renewed.

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1 JURISDICTION

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

5 4. Section 4300 of the Code states in pertinent part:

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

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

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

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

13 (4) Revoking his or her license.

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

16 5. Section 4300.1 of the Code states:

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

22 6. Section 4301 of the Code states in pertinent 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 (j) The violation of any of the statutes of this state, or any other state, or of the United  
27 States regulating controlled substances and dangerous drugs.

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1 (d) The conviction of a crime substantially related to the qualifications, functions, and duties  
2 of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
4 substances or of a violation of the statutes of this state regulating controlled substances or  
5 dangerous drugs shall be conclusive evidence of unprofessional conduct. The board may inquire  
6 into the circumstances surrounding the commission of the crime, in order to fix the degree of  
7 discipline. A plea or verdict of guilty or a conviction following a plea of nolo contendere is  
8 deemed to be a conviction within the meaning of this provision.

9 7. Health and Safety Code section 11377 states in pertinent part:

10 (a) Every person who unlawfully possesses any controlled substance which is specified in  
11 subdivision (d) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist,  
12 or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county  
13 jail for a period of not more than one year or pursuant to subdivision (h) of Section 1170 of the  
14 Penal Code.

15 8. Health and Safety Code section 11364.1 states in pertinent part:

16 (a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or  
17 paraphernalia used for unlawfully injecting or smoking a controlled substance specified in  
18 paragraph (2) of subdivision (d) of Section 11055.

19 **DRUGS**

20 9. Methamphetamine is a Schedule II controlled substance pursuant to Health and  
21 Safety Code section 11055, subdivision (d), paragraph (2).

22 **COST RECOVERY**

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Substantially Related Conviction)**

3 11. Respondent is subject to disciplinary action under Code section 4300, subdivision (I)  
4 in that on or about January 30, 2013, in a case entitled *People v. Chong Lee*, Fresno County  
5 Superior Court case number F12910035, Respondent was convicted after his plea of guilty to a  
6 violation of Health and Safety Code section 11377, subdivision (a), a felony, possession of  
7 Methamphetamine, a controlled substance. The circumstances are as follows:

8 12. On or about November 16, 2012, Respondent was observed by Fresno Police Officers  
9 speeding in a residential area. Respondent stopped and exited the vehicle before the officers  
10 activated their lights in order to effectuate a stop. After exiting the vehicle, officers contacted  
11 Respondent and informed him they observed him speeding, and requested his driver's license.  
12 Respondent told the officers his license was inside his vehicle in the center console. With  
13 Respondent's permission, one of the officers entered his vehicle in order to obtain the driver's  
14 license. On top of Respondent's driver's license in the center console was a pipe for smoking  
15 methamphetamine with methamphetamine residue visible. The officer asked Respondent if there  
16 were any other illegal items within the vehicle, and Respondent told him there was a baggie of  
17 methamphetamine near or under the driver's seat. The officer located the methamphetamine and  
18 placed Respondent under arrest.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Violations of Statutes Regulating Controlled Substances)**

21 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),  
22 in that on or about November 16, 2012, Respondent violated provisions of the Health and Safety  
23 Code regulating controlled substances. The circumstances are as follows:

24 a. On or about November 16, 2012, Respondent was in possession of  
25 methamphetamine, a violation of Health and Safety Code section 11377, subdivision (a). The  
26 circumstances are as set forth in paragraph 12, above.

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