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

12 In the Matter of the Accusation Against:

Case No. 5019

13 **PRISCILLA JAUREGUI**
21975 Mary Street
14 Perris, CA 92570

ACCUSATION

15 **Pharmacy Technician Registration**
16 **No. TCH 94349**

17 Respondent.

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 September 27, 2009, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 94349 to Priscilla Jauregui (Respondent). The Pharmacy Technician
24 Registration expired on August 31, 2013, and has not been renewed.

25 **JURISDICTION**

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

1 9. Section 4022 of the Code states

2 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
3 self-use in humans or animals, and includes the following:

4 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
5 without prescription," "Rx only," or words of similar import.

6 (b) Any device that bears the statement: "Caution: federal law restricts this device
7 to sale by or on the order of a _____," "Rx only," or words of similar import, the
8 blank to be filled in with the designation of the practitioner licensed to use or order use
9 of the device.

10 (c) Any other drug or device that by federal or state law can be lawfully dispensed
11 only on prescription or furnished pursuant to Section 4006.

12 10. Section 4060 of the Code states, in pertinent part, that no person shall possess any
13 controlled substance, except that furnished to a person upon the prescription of a physician,
14 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

15 11. Section 4301 of the Code states:

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

20

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

26

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

 (l) The conviction of a crime substantially related to the qualifications, functions,
and duties of a licensee under this chapter. The record of conviction of a violation of
Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
regulating controlled substances or of a violation of the statutes of this state regulating
controlled substances or dangerous drugs shall be conclusive evidence of unprofessional
conduct. In all other cases, the record of conviction shall be conclusive evidence only of
the fact that the conviction occurred. The board may inquire into the circumstances
surrounding the commission of the crime, in order to fix the degree of discipline or, in
the case of a conviction not involving controlled substances or dangerous drugs, to
determine if the conviction is of an offense substantially related to the qualifications,
functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a
conviction following a plea of nolo contendere is deemed to be a conviction within the
meaning of this provision. The board may take action when the time for appeal has

1 elapsed, or the judgment of conviction has been affirmed on appeal or when an order
2 granting probation is made suspending the imposition of sentence, irrespective of a
3 subsequent order under Section 1203.4 of the Penal Code allowing the person to
4 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
5 verdict of guilty, or dismissing the accusation, information, or indictment.

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7 12. Health and Safety Code section 11377, subdivision (a) states:

8 Except as authorized by law and as otherwise provided in subdivision (b) or
9 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division
10 2 of the Business and Professions Code, every person who possesses any controlled
11 substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic
12 drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14),
13 (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of
14 Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054,
15 or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the
16 prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this
17 state, shall be punished by imprisonment in a county jail for a period of not more than
18 one year or pursuant to subdivision (h) of Section 1170 of the Penal Code.

19 13. Health and Safety Code section 11350, subdivision (a) states:

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

28 14. Health and Safety Code section 11550, subdivision (a) states:

No person shall use, or be under the influence of any controlled substance which is
(1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section
11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section
11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1)
or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a
narcotic drug classified in Schedule III, IV, or V, except when administered by or under
the direction of a person licensed by the state to dispense, prescribe, or administer
controlled substances. It shall be the burden of the defense to show that it comes within
the exception. Any person convicted of violating this subdivision is guilty of a
misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than
one year in a county jail. The court may place a person convicted under this subdivision
on probation for a period not to exceed five years and, except as provided in subdivision
(c), shall in all cases in which probation is granted require, as a condition thereof, that
the person be confined in a county jail for at least 90 days. Other than as provided by
subdivision (c), in no event shall the court have the power to absolve a person who
violates this subdivision from the obligation of spending at least 90 days in confinement
in a county jail.

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1 **REGULATORY PROVISIONS**

2 15. California Code of Regulations, title 16, section 1769, states:

3

4 (b) When considering the suspension or revocation of a facility or a personal
5 License on the ground that the licensee or the registrant has been convicted of a crime,
6 the board, in evaluating the rehabilitation of such person and his present eligibility for a
7 license will consider the following criteria:

8 (1) Nature and severity of the act(s) or offense(s).

9 (2) Total criminal record.

10 (3) The time that has elapsed since commission of the act(s) or offense(s).

11 (4) Whether the licensee has complied with all terms of parole, probation,
12 restitution or any other sanctions lawfully imposed against the licensee.

13 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

22 **COSTS**

23 17. Section 125.3 of the Code provides, 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, with failure of the licentiate to comply subjecting the license to not
27 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
28 may be included in a stipulated settlement.

DRUGS

18 18. Methamphetamine is a Schedule II controlled substance as designated by Health
19 and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business
20 and Professions Code section 4022.

21 ///

1 Perris. Upon arrival, the deputy observed a vehicle parked alongside the road, occupied by
2 Respondent and a male passenger. He thought the two may have either been involved in the
3 shooting, or could have heard the shots. During a consensual pat down search of Respondent and
4 her companion, Respondent became agitated and asked why she was being treated like a criminal.
5 When asked what they were doing in the area, they claimed that their car had broken down. A
6 records check of Respondent's passenger revealed he had an active warrant. Respondent
7 consented to a search of her vehicle. The deputy found a black replica handgun under the
8 driver's seat where Respondent had been sitting. On the back seat, the deputy located a zippered
9 bag containing two plastic baggies of methamphetamine, and one baggie of heroin. Respondent
10 admitted to the deputy that the zippered bag belonged to her, that she and her companion had
11 been smoking methamphetamine prior to the deputy's arrival, and that she was addicted to
12 heroin. Respondent showed the deputy the needle tracks on her arm where she had injected
13 heroin. Respondent directed the deputy to two syringes and a glass pipe loaded with a large
14 amount of methamphetamine hidden in the airbag compartment in front of the passenger's seat.
15 Both Respondent and her companion were arrested and transported to the Perris substation where
16 they provided blood samples.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Illegal Use of a Controlled Substance)**

19 21. Respondent has subjected her registration to discipline under section 4301,
20 subdivision (h) of the Code for unprofessional conduct in that on or around July 11, 2013,
21 Respondent was under the influence of controlled substances, as described in paragraph 20,
22 above, conduct that was dangerous or injurious to herself, and impaired Respondent's ability to
23 safely practice as a pharmacy technician.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Violation of State Laws Regulating Controlled Substances)**

26 22. Respondent has subjected her registration to disciplinary action under section 4301,
27 subdivision (j) of the Code for unprofessional conduct in that on or about July 11, 2013, as
28 described in paragraph 20, above, Respondent's conduct violated state laws regulating controlled

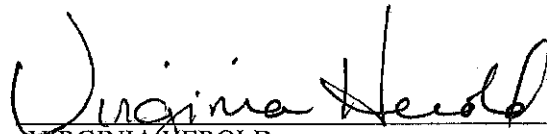
1 substances as follows: Health and Safety Code section 11377, subdivision (a) – possession of
2 methamphetamine; Health and Safety Code section 11350, subdivision (a) – possession of heroin;
3 Health and Safety Code section 11550, subdivision (a) – under the influence of a controlled
4 substance; and Business and Professions Code section 4060 – illegal possession of a controlled
5 substance.

6 **PRAYER**

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

- 9 1. Revoking or suspending Pharmacy Technician Registration Number TCH 94349,
10 issued to Priscilla Jauregui;
- 11 2. Ordering Priscilla Jauregui to pay the Board of Pharmacy the reasonable costs of the
12 investigation and enforcement of this case, pursuant to Business and Professions Code section
13 125.3;
- 14 3. Taking such other and further action as deemed necessary and proper.

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16
17 DATED: 3/1/14


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

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