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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. 5696

12 **BRISSA LEAL**
13 **2541 S. University Street**
Visalia, CA 93277

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **120740**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

21 2. On or about March 27, 2012, the Board issued Pharmacy Technician Registration
22 Number TCH 120740 to Brissa Leal ("Respondent"). The pharmacy technician registration
23 expired on August 31, 2015.

24 **JURISDICTION/STATUTORY PROVISIONS**

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

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4. Section 4300 states, in pertinent part:

(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 . . .

5. Section 4300.1 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.

6. Section 4301 states, in pertinent 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:

....

(j) The violation of any of the statutes of this state, or any other state, or of the 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

1 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
2 contendere is deemed to be a conviction within the meaning of this provision. The
3 board may take action when the time for appeal has elapsed, or the judgment of
4 conviction has been affirmed on appeal or when an order granting probation is made
5 suspending the imposition of sentence, irrespective of a subsequent order under
6 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
7 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
8 dismissing the accusation, information, or indictment . . .

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10 **COST RECOVERY**

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

15 **DRUG CLASSIFICATIONS**

16 8. "Methamphetamine" is a Schedule II controlled substance as designated by Health
17 and Safety Code section 11055, subdivision (d)(2).

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Criminal Conviction)**

20 9. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
21 section 4301, subdivision (l), in that on or about October 9, 2015, in the criminal proceeding
22 entitled *People vs. Brissa Leal* (Tulare County Super. Ct., Case No. VCM314918), Respondent
23 pled guilty to violating Health and Safety Code section 11377, subdivision (a) (unlawful
24 possession of a controlled substance), a misdemeanor. The circumstances of the crime are as
25 follows. On or about January 5, 2015, a Visalia Police Department Officer conducted an
26 enforcement stop on Respondent's vehicle. The officer made contact with Respondent and asked
27 her if she had anything illegal inside of her vehicle. Respondent stated "no", then consented to a
28 search of her vehicle. The officer searched the vehicle and found two plastic baggies with a rock
like substance inside of each baggie. The officer determined later that the baggies contained
methamphetamine.

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SECOND CAUSE FOR DISCIPLINE

(Violations of State Laws Regulating Controlled Substances)

10. Respondent is subject to disciplinary action for unprofessional conduct pursuant to section 4301, subdivision (j), in that on or about January 5, 2015, Respondent possessed the controlled substance methamphetamine in violation of Health and Safety Code section 11377, subdivision (a), as set forth in paragraph 9 above.

PRAYER

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

- 1. Revoking or suspending Pharmacy Technician Registration Number TCH 120740, issued to Brissa Leal;
- 2. Ordering Brissa Leal to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 3/15/16

Virginia Herold

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

SA2015106158