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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. 5717

12 **RICHARD PEDROZA**
1726 East 2nd Street, #21
13 Long Beach, CA 90802

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
29624

15 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 June 11, 1999, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 29624 to Richard Pedroza ("Respondent"). The Pharmacy Technician
24 Registration expired on June 30, 2015, 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 4. Section 4011 of the Code provides that “[t]he board shall administer and enforce this
2 chapter [Pharmacy Law, (Business and Profession Code, Sec 4000 et seq.)] and the Uniform
3 Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and
4 Safety Code).”

5 5. Section 4300 of the Code provides in pertinent part, that every license issued by the
6 Board is subject to discipline, including suspension or revocation.

7 6. Section 4300.1 states:

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

12 STATUTORY PROVISIONS

13 7. Section 490 of the Code states:

14 (a) In addition to any other action that a board is permitted to take against a licensee, a
15 board may suspend or revoke a license on the ground that the licensee has been
16 convicted of a crime, if the crime is substantially related to the qualifications,
17 functions, or duties of the business or profession for which the license was issued.

18 (b) Notwithstanding any other provision of law, a board may exercise any authority to
19 discipline a licensee for conviction of a crime that is independent of the authority
20 granted under subdivision (a) only if the crime is substantially related to the
21 qualifications, functions, or duties of the business or profession for which the licensee's
22 license was issued.

23 (c) A conviction within the meaning of this section means a plea or verdict of guilty or
24 a conviction following a plea of nolo contendere. Any action that a board is permitted
25 to take following the establishment of a conviction may be taken when the time for
26 appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or
27 when an order granting probation is made suspending the imposition of sentence,
28 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal
Code....

24 8. Section 4060 of the Code states:

25 No person shall possess any controlled substance, except that furnished to a person
26 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
27 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order
28 issued by a certified nurse midwife pursuant to Section 2746.51, a nurse practitioner
pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or
naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either

1 subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
2 (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession
3 of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,
4 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
nurse midwife, nurse practitioner, or physician assistant, when in stock in containers
correctly labeled with the name and address of the supplier or producer....

5 9. Section 4301 of the Code states:

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

9 ...

10 (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.

11 ...

12 (l) The conviction of a crime substantially related to the qualifications, functions, and
13 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
14 regulating controlled substances or of a violation of the statutes of this state regulating
controlled substances or dangerous drugs shall be conclusive evidence of
15 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
16 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
17 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
18 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
19 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
or when an order granting probation is made suspending the imposition of sentence,
20 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the
person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting
21 aside the verdict of guilty, or dismissing the accusation, information, or indictment.

22 ...

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

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1 **REGULATORY PROVISIONS**

2 10. 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
5 Professions Code, a crime or act shall be considered substantially related to the
6 qualifications, functions or duties of a licensee or registrant if to a substantial degree it
7 evidences present or potential unfitness of a licensee or registrant to perform the
8 functions authorized by his license or registration in a manner consistent with the
9 public health, safety, or welfare.

7 **COST RECOVERY**

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

12 **CONTROLLED SUBSTANCE**

13 12. Section 4021 of the Code states, in pertinent part:
14 “Controlled substances: means any substance listed in Chapter 2 (commencing with Section
15 11053) of Division 10 of the Health and Safety Code.”

16 13. Methamphetamine is a Schedule II controlled substance pursuant to Health and
17 Safety Code section 11055, subdivision (d)(2).

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Conviction of Substantially Related Crime)**

20 14. Respondent is subject to disciplinary action under Code sections 490, and 4301,
21 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
22 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
23 related to the qualifications, functions, and duties of a pharmacy technician, as follows:

24 a. On or about August 27, 2015, Respondent was convicted of one misdemeanor count
25 of violating Health and Safety Code sections 11377 [possessing a controlled substance, to wit,
26 methamphetamine], in the criminal proceeding entitled *The People of the State of California v.*
27 *Richard Pedroza* (Super. Ct. Los Angeles County, 2015, No. 5DY06255). The Court placed

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1 Respondent on one year probation, ordered him to complete 45 days of Narcotic Anonymous
2 Meetings, and ordered him to pay fines.

3 b. The circumstances surrounding the conviction are that on or about June 16, 2015, at
4 approximately 1:31 a.m., Respondent and a friend, were sitting in a parked car in an alley. A
5 Downey police officer observed Respondent in the front passenger seat. During the police
6 contact, the officer observed an open beer can. Respondent denied being in possession of
7 unlawful substances. Upon a search of Respondent, a small "Altoids" mints tin was found in the
8 left front pocket of his pants which had a small clear plastic baggie containing a white crystalline
9 substance. Respondent admitted that the white crystalline substance was methamphetamine, was
10 for his personal use, and that he has been using the controlled substance off and on for
11 approximately one year.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unlawful Possession of Controlled Substance)**

14 15. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
15 on the grounds of unprofessional conduct, for violating Code section 4060, and Health and Safety
16 Code section 11375, subdivision (b)(1), in that on or about May 28, 2015, Respondent unlawfully
17 possessed methamphetamine, a controlled substance. Complainant refers to, and by this
18 reference incorporates, the allegations set forth above in paragraph 14, and all subparagraphs,
19 inclusive, as though set forth fully.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct / Violation of Licensing Chapter)**

22 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
23 in that Respondent committed acts of unprofessional conduct and violated provisions of the
24 licensing chapter. Complainant refers to, and by this reference incorporates, the allegations set
25 forth above in paragraph 14, and all subparagraphs, inclusive, as though set forth fully.

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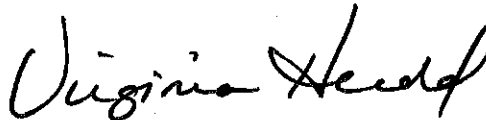
PRAYER

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 29624, issued to Richard Pedroza ;
2. Ordering Richard Pedroza 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: _____

5/2/16



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

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