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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. 5857

13 **KATERRA LYNN CARRILLO**
14 **10032 North Magnolia Avenue #F4**
Santee, CA 92071

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 129125**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about January 16, 2013, the Board issued Pharmacy Technician Registration
24 Number TCH 129125 to Katerra Lynn Carrillo (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on December 31, 2016, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license
9 by operation of law or by order or decision of the board or a court of law, the
10 placement of a license on a retired status, or the voluntary surrender of a license by a
11 licensee 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
13 a decision suspending or revoking the license.

14 **STATUTORY PROVISIONS**

15 6. Section 482 of the Code states:

16 Each board under the provisions of this code shall develop criteria to evaluate
17 the rehabilitation of a person when:

- 18 (a) Considering the denial of a license by the board under Section 480; or
- 19 (b) Considering suspension or revocation of a license under Section 490.

20 Each board shall take into account all competent evidence of rehabilitation
21 furnished by the applicant or licensee.

22 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
23 revoke a license on the ground that the licensee has been convicted of a crime substantially
24 related to the qualifications, functions, or duties of the business or profession for which the
25 license was issued.

26 8. Section 493 of the Code states:

27 Notwithstanding any other provision of law, in a proceeding conducted by a
28 board within the department pursuant to law to deny an application for a license or to
suspend or revoke a license or otherwise take disciplinary action against a person who
holds a license, upon the ground that the applicant or the licensee has been convicted
of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order

1 to fix the degree of discipline or to determine if the conviction is substantially related
2 to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

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
9 not limited to, any of the following:

10 ...

11 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
12 deceit, or corruption, whether the act is committed in the course of relations as a
13 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

14 ...

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

17 ...

18 (l) The conviction of a crime substantially related to the qualifications,
19 functions, and duties of a licensee under this chapter. The record of conviction of a
20 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
21 States Code regulating controlled substances or of a violation of the statutes of this
22 state regulating controlled substances or dangerous drugs shall be conclusive
23 evidence of unprofessional conduct. In all other cases, the record of conviction shall
24 be conclusive evidence only of the fact that the conviction occurred. The board may
25 inquire into the circumstances surrounding the commission of the crime, in order to
26 fix the degree of discipline or, in the case of a conviction not involving controlled
27 substances or dangerous drugs, to determine if the conviction is of an offense
28 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 elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, 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 aside the verdict of guilty, or
dismissing the accusation, information, or indictment. . . .

10. Section 4022 of the Code states

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

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

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

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

7 11. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
8 controlled substance, except that furnished to a person upon the prescription of a physician,
9 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

10 12. Penal Code section 4573 states:

11 (a) Except when otherwise authorized by law, or when authorized by the person
12 in charge of the prison or other institution referred to in this section or by an officer of
13 the institution empowered by the person in charge of the institution to give the
14 authorization, any person, who knowingly brings or sends into, or knowingly assists
15 in bringing into, or sending into, any state prison, prison road camp, prison forestry
16 camp, or other prison camp or prison farm or any other place where prisoners of the
17 state are located under the custody of prison officials, officers or employees, or into
18 any county, city and county, or city jail, road camp, farm or other place where
19 prisoners or inmates are located under custody of any sheriff, chief of police, peace
20 officer, probation officer or employees, or within the grounds belonging to the
21 institution, any controlled substance, the possession of which is prohibited by
22 Division 10 (commencing with Section 11000) of the Health and Safety Code, any
23 device, contrivance, instrument, or paraphernalia intended to be used for unlawfully
24 injecting or consuming a controlled substance, is guilty of a felony punishable by
25 imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four
26 years.

27 (b) The prohibitions and sanctions addressed in this section shall be clearly and
28 prominently posted outside of, and at the entrance to, the grounds of all detention
facilities under the jurisdiction of, or operated by, the state or any city, county, or city
and county.

REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 1769, subdivision (b) states:

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

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

(2) Total criminal record.

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

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

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

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

3 For the purpose of denial, suspension, or revocation of a personal or facility
4 license 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 evidences present or potential unfitness of a licensee or registrant to perform the
functions authorized by his license or registration in a manner consistent with the
public health, safety, or welfare.

7 **COSTS**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(May 27, 2016 Criminal Conviction for Bringing Contraband into a Jail**
16 **on February 15, 2015)**

17 16. Respondent has subjected her registration to discipline under sections 490 and 4301,
18 subdivision (l) of the Code in that she was convicted of a crime that is substantially related to the
19 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

20 a. On or about May 27, 2016, in a criminal proceeding entitled *People of the State*
21 *of California v. Katerra Lynn Carrillo*, in Riverside County Superior Court, case number
22 RIF1501583, Respondent was convicted on her plea of guilty to violating Penal Code section
23 4573, bringing contraband into a jail, a felony. Pursuant to Respondent's plea agreement, the
24 court dismissed additional charges of possessing drugs on the grounds of a state prison (Pen.
25 Code, § 4573.8), and possessing drugs or paraphernalia where prisoners are kept (Pen. Code, §
26 4573.6).

27 b. As a result of the conviction, Respondent was granted formal probation for 36
28 months, and was committed to the custody of the Riverside County Sheriff for 67 days, to be

1 served in their alternative sentencing hard labor program. Respondent was ordered to submit to a
2 Fourth Amendment waiver, pay fees, fines and victim restitution, and comply with additional
3 conditions of felony probation.

4 c. The facts that led to the conviction are that on or around February 5, 2015, the
5 California Rehabilitation Center (under the California Department of Corrections), commenced
6 an investigation into illegal drug activity in the prison. Investigators conducted a search of phone
7 calls made by inmate T.L., and visitations he had received. Within a year's span, dating back to
8 February 1, 2014, there were approximately 250 phone calls made by inmate T.L. to Respondent.
9 Investigators reviewed previously records phone calls made close to the days Respondent visited
10 inmate T.L. During several of the phone calls, inmate T.L. and Respondent were discussing
11 narcotic-related business and activities using code words to disguise their conversations.
12 Investigators transcribed three telephone conversations and determined it was probable that
13 Respondent was going to attempt to introduce a controlled substance into the prison on her next
14 scheduled visit to see inmate T.L. On February 15, 2015, Respondent arrived at the prison with
15 her two-year-old daughter to visit inmate T.L. Respondent and her daughter were escorted to the
16 prison's Investigative Services Unit. During an interview with Respondent, she admitted she had
17 brought marijuana to the prison, and intended to give it to her boyfriend, inmate T.L. Respondent
18 retrieved from the waistband of her pants two clear latex bindles of marijuana with a combined
19 weight of 11.2 grams, inclusive of packaging. Respondent was arrested.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

22 17. Respondent has subjected her registration to discipline under section 4301,
23 subdivision (f) of the Code for unprofessional conduct in that on or about February 15, 2015,
24 Respondent knowingly and willfully conspired to introduce a controlled substance into a prison,
25 conduct demonstrating moral turpitude, dishonesty, fraud, deceit, or corruption, as described in
26 paragraph 16, above.

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THIRD CAUSE FOR DISCIPLINE

(Violation of California Statutes Regulating Controlled Substances)

18. Respondent has subjected her registration to discipline under section 4301, subdivision (j) of the Code for unprofessional conduct in that on or on or about February 15, 2015, as described in paragraph 16, above, Respondent violated Penal Code sections 4573, bringing contraband into a jail; Penal Code section 4573.8, possessing drugs on the grounds of a state prison; Penal Code section 4573.8, possessing drugs on the grounds of a state prison; Penal Code section 4573.6, possessing drugs or paraphernalia where prisoners are kept; and Business and Professions Code section 4060, possession of a controlled substance without a prescription.

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 129125, issued to Kattera Lynn Carrillo;
2. Ordering Kattera Lynn Carrillo 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/11/16

Virginia Herold

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

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