BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 2735
CHRISTINE MARIE HEAL 19285 Mesa Street Rialto, CA 92377 Pharmacy Technician Registration No. TCH 39132 Respondent.	**DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 28, 2005, Complainant Patricia F. Harris, in her official capacity as the Executive Officer of the Board of Pharmacy, filed Accusation No. 2735 against Christine Marie Heal (Respondent) before the Board of Pharmacy.

2. On or about August 17, 2001, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 39132 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2006, unless renewed.

3. On or about August 10, 2005, MariaElena Hernandez, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2735, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board of Pharmacy, which was and is 19285 Mesa Street, Rialto, CA 92377. A copy of the Accusation is attached hereto as Exhibit A and incorporated herein by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. On or about August 12, 2005, the aforementioned documents were received at the address of record. A copy of the Domestic Return Receipt is attached hereto as Exhibit B and incorporated herein by reference.

6. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

7. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2735.

8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board of Pharmacy finds Respondent is in default. The Board of Pharmacy will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it contained in Exhibit A, finds that the allegations in Accusation No. 2735 are true.

10. The total costs for investigation and enforcement are $2,901.50 as of December 8, 2005.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Christine Marie Heal has subjected her Pharmacy Technician Registration No. TCH 39132 to discipline.

2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation:

a. Business and Professions Code sections 490 and 4301, subdivisions (k) and (l) - conviction of a crime substantially related to the qualifications, functions, or duties of a pharmacy technician.

b. Business and Professions Code sections 4301, subdivisions (h), (j), and (p) in conjunction with Health and Safety Code section 11170 - administered controlled substances to herself.

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 39132, heretofore issued to Respondent Christine Marie Heal, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 2735
CHRISTINE MARIE HEAL 19285 Mesa St Rialto, CA 92377 Pharmacy Technician Registration No. TCH 39132 Respondent.	**DEFAULT DECISION AND ORDER**

DECISION AND ORDER

The attached Default Decision and Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This decision shall become effective on February 22, 2006.

It is so ORDERED on January 23, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

Exhibit A

Accusation No. 2735

BILL LOCKYER, Attorney General
of the State of California
JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2569
Facsimile: (213) 897-2804

Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: CHRISTINE MARIE HEAL 19285 Mesa Street Rialto, CA 92377 Pharmacy Technician Registration No. TCH 39132 Respondent.	Case No. 2735 **ACCUSATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about August 17, 2001, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 39132 to Christine Marie Heal (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2006, unless renewed.

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JURISDICTION

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

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

5. Section 118, subdivision (b) states:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

6. Section 4301 of the Code states:

"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:

. . . .

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

. . . .

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

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

"(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 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.

. . . .

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting 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 regulations established by the board.

"(p) Actions or conduct that would have warranted denial of a license."

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7. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order 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. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, 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.

"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices."

8. Section 490 of the Code states:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code."

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

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the 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."

10. Section 11170 of the Health and Safety Code provides: "no person shall prescribe, administer, or furnish a controlled substance for himself."

11. Section 11173, subdivision (a) of the Health and Safety Code provides: "no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

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

13. CONTROLLED SUBSTANCE

A. "Methamphetamine," is a Schedule II controlled substances as defined in Health and Safety Code section 11055(d)(2) and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022 of the Code.

B. "Marijuana," is a Schedule I controlled substance as defined in Health and Safety Code section 11054 (d) (13). There is no legitimate indicated use for this drug.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Conviction of Substantially Related Crimes)

14. Respondent is subject to disciplinary action under section 4300 and 4301, subdivisions (k) and (1), on the grounds of unprofessional conduct in conjunction with section 490 as defined in California Code of Regulations, title 16, section 1770, in that Respondent was convicted of crimes substantially related to the qualifications, functions, or duties of a pharmacy technician. The circumstances are as follows:

a. On or about July 29, 2003, Respondent was convicted on a plea of guilty for one count of violating Vehicle Code section 23152(A), a misdemeanor (driving under the influence of a controlled substance), in the Superior Court of the State of California, County of San Bernardino, Case No. TVA89419, entitled *The People of the State of California v. Christine Marie Heal.*

b. The circumstances surrounding the conviction are that on or about December 5, 2002, Respondent was stopped by a Rialto police officer for speeding. The police officer observed that Respondent's eyes appeared bloodshot and glazed and that her pupils appeared dilated. The police officer determined that Respondent was under the influence of a controlled substance, and Respondent was placed under arrest. Respondent agreed to give a blood sample for drug testing. The drug screen results from the December 5, 2002, blood sample were positive for amphetamines and cannabinoids.

c. On or about July 29, 2003, Respondent was convicted on a plea of guilty for one count of violating Health and Safety Code section 11550(A), a misdemeanor, (under the influence of controlled substances), in the Superior Court of the State of California, County of San Bernardino, Case No. MSB064690, entitled *The People of the State of California v. Christine Marine Heal.*

d. The circumstances surrounding the conviction are that on or about April 29, 2002, while Respondent was at a friend's apartment, San Bernardino Sheriff officers arrived to talk to the tenant regarding an unrelated criminal matter. After interviewing the tenant, the officers interviewed Respondent. The officers determined that Respondent was under the influence of a controlled substance. Respondent volunteered to give an urine sample for testing. The urine screen test was positive for amphetamines.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Administer a Controlled Substance to Oneself)

15. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivisions (h), (j) and (p), on the grounds of unprofessional conduct for violating section 4060 in conjunction with Health and Safety Code section 11170 in that Respondent administered controlled substances to herself. The circumstances are as follows:

a. On or about December 2, 2002, Respondent was arrested by Rialto police officers for being under the influence of a controlled substance. The results of a urine screen test were positive for amphetamines and cannabinoids (marijuana). Respondent admitted to the arresting officers that she had previously been arrested for marijuana use.

b. On or about April 29, 2002, while conducting an investigation on an unrelated criminal matter, Respondent was interviewed by San Bernardino Sheriff's officers. During the interview, the officers determined that Respondent was under the influence of a controlled substance. Respondent volunteered to give a urine sample for testing. The urine screen test was positive for amphetamines.

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 No. TCH 39132, issued to Christine Marie Heal.

2. Ordering Christine Marie Heal 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: 7/28/05

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

50049848.wpd

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: **In the Matter of the Accusation Against: Christine Marie Heal**
Case No: **2735**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 10, 2005, I served the attached **Statement to Respondent, Accusation, Request for Discovery, Notice of Defense, and Government Code Sections** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Statement to Respondent, Accusation, Request for Discovery, Notice of Defense, and Government Code Sections** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at Los Angeles addressed as follows

Christine Marie Heal
19285 Mesa Street
Rialto, CA 92377

Certified Mail Receipt No.
7001 0360 0003 2702 0924

Board of Pharmacy
Kim deLong, Enforcement Analyst
400 R Street, Suite 4070
Sacramento, CA 95814-6200

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here

Sent To Christine Marie Heal
Street, Apt. No.; or PO Box No.
City, State, ZIP+ 4

PS Form 3800, January 2001 See Reverse for Instructions

7001 0360 0003 2702 0924

he laws of the State of California the foregoing is true
executed on August 10, 2005, at Los Angeles,

Signature

Exhibit B

Domestic Return Receipt

Christinie Heal
Acc. Packet

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Christine Marie Heal
19285 Mesa Street
Rialto, CA 92377

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* William Heal

B. Date of Delivery 8-2-05

C. Signature

X William Heal

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

USPS AUG 2005 RIALTO, CA 92376

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7001 0360 0003 2702 0924

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952