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6 Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 3088

13 **CHERYLLYN O. DANGANAN**

14 949 Cashew Way
Fremont, CA 94563

**DEFAULT DECISION
AND ORDER**

15 Pharmacy Technician
Registration No. TCH 30631

[Gov. Code, §11520]

16 Respondent.

FINDINGS OF FACT

17 1. On or about November 7, 2007, Complainant Virginia Herold, in her
18 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
19 Affairs, filed Accusation No. 3088 against Cheryllyn O. Danganan, aka Cheryllyn O. Domingo
20 (Respondent) before the Board of Pharmacy.

21 2. On or about September 9, 1999, the Board of Pharmacy (Board) issued
22 Pharmacy Technician License No. TCH 30631 to Respondent. The Pharmacy Technician
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on November 30, 2008, unless renewed.

25 3. On or about November 13, 2007, James J. Mirarchi, an employee of the
26 Department of Justice, served by Certified Mail a copy of the Accusation No. 3088, Statement to
27 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
28 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 949

1 Cashew Way, Fremont, California, 94536. A copy of the Accusation, the related documents, and
2 Declaration of Service are attached as exhibit A, and are incorporated herein by reference.

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

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

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

10 6. Respondent failed to file a Notice of Defense within 15 days after service
11 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
12 Accusation No. 3088.

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

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

17 8. Pursuant to its authority under Government Code section 11520, the Board
18 finds Respondent is in default. The Board will take action without further hearing and, based on
19 Respondent's express admissions by way of default and the evidence before it, contained in
20 exhibits A, B and C, finds that the allegations in Accusation No. 3088 are true.

21 9. The total costs for investigation and enforcement are \$1,189.50 as of
22 December 11, 2007.

23 **DETERMINATION OF ISSUES**

24 1. Based on the foregoing findings of fact, Respondent Cheryllyn O.
25 Danganan, aka Cheryllyn O. Domingo, has subjected her Pharmacy Technician License No. TCH
26 30631 to discipline.

27 2. A copy of the Accusation and the related documents and Declaration of
28 Service are attached.

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

4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician License based upon the following violations of the Business and Professions Code alleged in the Accusation:

- a. Criminal convictions, in violation of Code section 4301(1);
- b. Violation of drug laws, in violation of Code section 4301(j);
- c. Bad acts, in violation of Code section 4301(f);
- d. Use of drugs, in violation of Code section 4301(h);
- e. Unprofessional conduct, in violation of Code section 4301.

ORDER

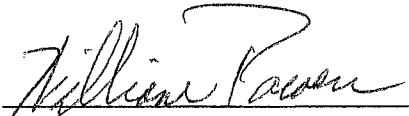
IT IS SO ORDERED that Pharmacy Technician License No. TCH 30631, heretofore issued to Respondent Cheryllyn O. Danganan, aka Cheryllyn O. Domingo, is revoked.

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.

This Decision shall become effective on March 5, 2008.

It is so ORDERED February 4, 2008

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
WILLIAM POWERS
Board President

Attachment:

Exhibit A: Accusation No.3088, Related Documents, and Declaration of Service

Exhibit A
Accusation No. 3088,
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER, State Bar No. 141461
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3088

11 **CHERYLLYN O. DANGANAN**
12 949 Cashew Way
Fremont, CA 94563

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

13 Pharmacy Technician
14 Registration No. TCH 30631

15 Respondent.

16
17 TO RESPONDENT:

18 Enclosed is a copy of the Accusation that has been filed with the Board of
19 Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

20 Unless a written request for a hearing signed by you or on your behalf is delivered
21 or mailed to the Board, represented by Deputy Attorney General Jonathan D. Cooper, within
22 fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you,
23 you will be deemed to have waived your right to a hearing in this matter and the Board may
24 proceed upon the Accusation without a hearing and may take action thereon as provided by law.

25 The request for hearing may be made by delivering or mailing one of the enclosed
26 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided
27 in section 11506 of the Government Code, to

1 **Jonathan D. Cooper**
2 **Deputy Attorney General**
3 **455 Golden Gate Avenue, Suite 11000**
4 **San Francisco, California 94102.**

5 You may, but need not, be represented by counsel at any or all stages of these
6 proceedings.

7 The enclosed Notice of Defense, if signed and filed with the Board, shall be
8 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any
9 objection to the form of the Accusation unless you file a further Notice of Defense as provided in
10 section 11506 of the Government Code within fifteen (15) days after service of the Accusation
11 on you.

12 If you file any Notice of Defense within the time permitted, a hearing will be held
13 on the charges made in the Accusation.

14 The hearing may be postponed for good cause. If you have good cause, you are
15 obliged to notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland,
16 CA 94612, within ten (10) working days after you discover the good cause. Failure to notify the
17 Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

18 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
19 enclosed.

20 If you desire the names and addresses of witnesses or an opportunity to inspect
21 and copy the items mentioned in section 11507.6 of the Government Code in the possession,
22 custody or control of the Board you may send a Request for Discovery to the above designated
23 Deputy Attorney General.

24 **NOTICE REGARDING STIPULATED SETTLEMENTS**

25 It may be possible to avoid the time, expense and uncertainties involved in an
26 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
27 settlement is a binding written agreement between you and the government regarding the matters
28 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
Board of Pharmacy but, once approved, it would be incorporated into a final order.

1 Any stipulation must be consistent with the Board's established disciplinary
2 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the
3 Board's Disciplinary Guidelines will be provided to you on your written request to the state
4 agency bringing this action.

5 If you are interested in pursuing this alternative to a formal administrative hearing,
6 or if you have any questions, you or your attorney should contact Deputy Attorney General
7 Jonathan D. Cooper at the earliest opportunity.

8 DATED: 11/13/07

9 EDMUND G. BROWN JR., Attorney General
10 of the State of California

11 FRANK H. PACOE
12 Supervising Deputy Attorney General

13
14 
15 JONATHAN D. COOPER
16 Deputy Attorney General

17 Attorneys for Complainant

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of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER, State Bar No. 141461
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 **CHERYLLYN O. DANGANAN**
949 Cashew Way
13 Fremont, CA 94563
14 Pharmacy Technician
Registration No. TCH 30631
15
16 Respondent.

Case No. 3088
OAH No.
ACCUSATION

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about September 9, 1999, the Board of Pharmacy issued Pharmacy
22 Technician Registration Number TCH 30631 to Cheryllyn O. Danganan (Respondent). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein and will expire on November 30, 2008, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4011 of the Code provides that the Board shall administer and
2 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled
3 Substances Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the
5 Board may be suspended or revoked.

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension,
7 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
8 proceed with a disciplinary action during the period within which the license may be renewed,
9 restored, reissued or reinstated.

10 STATUTORY PROVISIONS

11 7. Section 4301 of the Code provides, in pertinent part, that the Board shall
12 take action against any holder of a license who is guilty of "unprofessional conduct," defined to
13 include, but not be limited to, any of the following:

14 ...

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

18 ...

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

24 ...

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

27 ...

28 “(l) The conviction of a crime substantially related to the qualifications, functions,

1 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter
2 13(commencing with Section 801) of Title 21 of the United States Code
3 regulating controlled substances or of a violation of the statutes of this state regulating controlled
4 substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all
5 other
6 cases, the record of conviction shall be conclusive evidence only of the fact that the conviction
7 occurred. The board may inquire into the circumstances surrounding the commission of the
8 crime, in order to fix the degree of discipline or, in the case of a conviction not involving
9 controlled substances or dangerous drugs, to determine if the conviction is of an offense
10 substantially related to the qualifications, functions, and duties of a licensee under this chapter. A
11 plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
12 conviction within the meaning of this provision. The board may take action when the time for
13 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order
14 granting probation is made suspending the imposition of sentence, irrespective of a subsequent
15 order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
16 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
17 accusation, information, or indictment.

18
19 8. California Code of Regulations, title 16, section 1770, provides that a
20 crime or act shall be considered substantially related to the qualifications, functions or duties of a
21 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
22 licensee or registrant to perform the functions authorized by his license or registration in a
23 manner consistent with the public health, safety, or welfare.

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

9. Section 4021 of the Code states:

“‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

10. Section 4022 of the Code states, in pertinent part:

“‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, 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.

...

“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4060.”

11. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.

12. California Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

13. California Health and Safety code section 11550, in pertinent part, makes it unlawful for any person to use or to be under the influence of methamphetamine.

14. California Health and Safety Code section 11377, in pertinent part, makes it unlawful for any person to possess methamphetamine.

15. **Methamphetamine** is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions Code section 4022. It is a stimulant drug.

COST RECOVERY

16. 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 of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

1 FACTUAL SUMMARY

2 17. On or about November 22, 2005, Respondent obtained a false
3 identification card by using the name and information of victim B.M.^{1/} Respondent then went to
4 B.M.'s credit union in Fremont, California and withdrew money from B.M.'s bank account.

5 18. On or about December 12, 2005, Respondent entered a check cashing
6 business in Newark, California and attempted to cash a stolen check. Respondent was arrested.
7 The arresting officer found methamphetamine in Respondent's possession. Respondent
8 informed the arresting officer that she was in need of drug treatment.

9 19. Based on the incidents set forth in paragraphs 17 and 18, Respondent was
10 charged in Alameda Superior Court case numbers 40210 and 215859 with violations of
11 California Penal Code sections 459 (burglary); 470(d) (forgery); 530.5(a)(identity theft);
12 496(a)(possession of stolen property); and Health and Safety Code section 11377 (possession of
13 methamphetamine).

14 20. On January 30, 2006, in Alameda Superior Court case number H40210,
15 Respondent was convicted of having violated California Penal Code section 530.5(a), identity
16 theft, a felony. The remaining counts were dismissed pursuant to plea negotiations. Respondent
17 was ordered, as a condition of probation, to complete a drug treatment program.

18 21. On or about November 20, 2005, in Union City, California, Respondent
19 was arrested for being under the influence of methamphetamine. Respondent admitted to the
20 arresting officer that she had recently used methamphetamine, and that she used it frequently.
21 Based on this arrest, on Respondent was charged in Alameda Superior Court case number
22 216121-3 with having committed a violation of California Health and Safety Code section
23 11550, use of or being under the influence of methamphetamine. Respondent was convicted on
24 June 6, 2006. On or about September 8, 2006, Respondent's probation was revoked.

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27 _____
28 1. The identity of B.M. is withheld herein but to protect B.M.'s privacy.

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Conviction of Substantially Related Crimes)

3 22. Respondent is subject to discipline under section 4301(l) of the Code in
4 that she was convicted of crimes substantially related to the qualifications, functions, and duties
5 of a pharmacy technician, as set forth above in paragraphs 17 through 21.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Violation of Drug Laws)

8 23. Respondent is subject to discipline under section 4301(j) of the Code in
9 that she violated California statutes regulating controlled substances and dangerous drugs, to wit
10 California Business and Professions Code section 4060 and California Health and Safety Code
11 sections 11170, 11550 and 11377, as set forth above in paragraphs 17 through 21.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

14 24. Respondent is subject to discipline under section 4301(f) of the Code in
15 that, as described in paragraphs 17 through 21, above, Respondent committed acts involving
16 moral turpitude, dishonesty, fraud, deceit, or corruption.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Use or Self-Administration of Drugs)

19 25. Respondent is subject to discipline under section 4301(h) of the Code in
20 that she administered to herself and used dangerous drugs as described in paragraphs 17 through
21 21, above, to the extent or in a manner as to be dangerous or injurious to herself, to a person
22 holding a license under this chapter, or to any other person or to the public, and to the extent that
23 the use impairs the ability of the person to conduct with safety to the public the practice
24 authorized by the license.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 (Unprofessional Conduct)

27 26. Respondent is subject to disciplinary action under section 4301 of the
28 Code in that Respondent, by way of the conduct described in paragraphs 17 through 21 above,

1 engaged in unprofessional conduct not becoming the profession of pharmacy.

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PRAYER

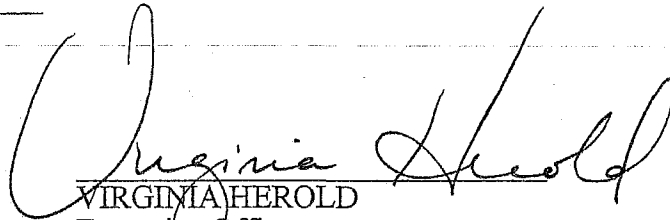
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

A. Revoking or suspending Pharmacy Technician Registration Number TCH 30631, issued to Cheryllyn O. Danganan (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as is deemed necessary and proper.

DATED: 11/7/07



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

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

In the Matter of the Accusation Against:

Case No. 3088

CHERYLLYN O. DANGANAN

949 Cashew Way
Fremont, CA 94563

Pharmacy Technician
Registration No. TCH 30631

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

Respondent.

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

- I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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

In the Matter of the Accusation Against:

CHERYLLYN O. DANGANAN
949 Cashew Way
Fremont, CA 94563

Pharmacy Technician
Registration No. TCH 30631

Respondent.

Case No. 3088

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

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The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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SF2007401222

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of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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10 In the Matter of the Accusation Against:

Case No. 3088

11 **CHERYLLYN O. DANGANAN**
12 949 Cashew Way
Fremont, CA 94563

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

13 Pharmacy Technician
14 Registration No. TCH 30631

15 Respondent.

16
17 TO RESPONDENT:

18 Under section 11507.6 of the Government Code of the State of California, parties
19 to an administrative hearing, including the Complainant, are entitled to certain information
20 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
21 Government Code concerning such rights is included among the papers served.

22 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
23 ARE HEREBY REQUESTED TO:

- 24 1. Provide the names and addresses of witnesses to the extent known to the
25 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
26 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
27 the following in the possession or custody or under control of the Respondent:
28 a. A statement of a person, other than the Respondent, named in the initial

1 administrative pleading, or in any additional pleading, when it is claimed that the act or
2 omission of the Respondent as to this person is the basis for the administrative
3 proceeding;

4 b. A statement pertaining to the subject matter of the proceeding made by any
5 party to another party or persons;

6 c. Statements of witnesses then proposed to be called by the Respondent and
7 of other persons having personal knowledge of the acts, omissions or events which are the
8 basis for the proceeding, not included in (a) or (b) above;

9 d. All writings, including but not limited to reports of mental, physical and
10 blood examinations and things which the Respondent now proposes to offer in evidence;

11 e. Any other writing or thing which is relevant and which would be
12 admissible in evidence, including but not limited to, any patient or hospital records
13 pertaining to the persons named in the pleading;

14 f. Investigative reports made by or on behalf of the Respondent pertaining to
15 the subject matter of the proceeding, to the extent that these reports (1) contain the names
16 and addresses of witnesses or of persons having personal knowledge of the acts,
17 omissions or events which are the basis for the proceeding, or (2) reflect matters
18 perceived by the investigator in the course of his or her investigation, or (3) contain or
19 include by attachment any statement or writing described in (a) to (e), inclusive, or
20 summary thereof.

21
22 For the purpose of this Request for Discovery, "statements" include written
23 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
24 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
25 and written reports or summaries of these oral statements.

26 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
27 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
28 is privileged from disclosure by law or otherwise made confidential or protected as attorney's

1 work product.


2 Your response to this Request for Discovery should be directed to the undersigned
3 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
4 **30 days after service** of the Accusation.

5 Failure without substantial justification to comply with this Request for Discovery
6 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30
7 of the Government Code.

8 DATED: 11/13/07

9 EDMUND G. BROWN JR., Attorney General
10 of the State of California

11 FRANK H. PACOE
12 Supervising Deputy Attorney General

13 
14 JONATHAN D. COOPER
15 Deputy Attorney General

16 Attorneys for Complainant

17 40185839.wpd
18 SF2007401222

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**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE BY CERTIFIED MAIL & FIRST CLASS MAIL

In the Matter of the Accusation Against: CHERYLLYN O. DANGANAN

Agency Case No. 3088

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 November 13, 2007, I served the attached **Accusation, S**
Defense (2 copies), Request for Discovery and Discovery
thereof enclosed in a sealed envelope as certified mail with
return receipt requested, and another true copy of the **Accus**
Notice of Defense (2 copies), Request for Discovery and I
second sealed envelope as first class mail with postage there
collection system at the Office of the Attorney General at 4
San Francisco, CA 94102, addressed as follows:

CHERYLLYN O. DANGANAN
949 Cashew Way
Fremont, CA 94563

Certified Article Number

7160 3901 9849 6400 4537

SENDERS RECORD

I declare under penalty of perjury under the laws of the State of California that this declaration was executed on November 13, 2007 in San Francisco, California.

James J. Mirarchi

Typed Name

7160 3901 9849 6400 4537

TO: Cheryllyn O. Danganan
949 Cashew Way
Fremont, CA 94563

SENDER: Jonathan D. Cooper

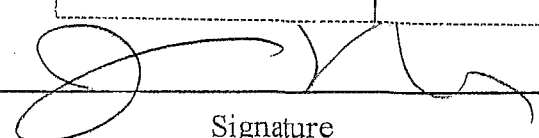
REFERENCE: Accus. Packet/Danganan, C
11-13-07

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service
**Receipt for
Certified Mail**
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE


Signature

THE
WALZ
CERTIFIED
MAILER™

FROM

WALZ™

U.S. PAT. NO. 5,501,393

7160 3901 9849 6400 4537

Cheryllyn O. Danganan
949 Cashew Way
Fremont, CA 94563

Label #1

TO: Cheryllyn O. Danganan
949 Cashew Way
Fremont, CA 94563

Cheryllyn O. Danganan
949 Cashew Way
Fremont, CA 94563

Label #2

SENDER: Jonathan D. Cooper

REFERENCE: Accus. Packet/Danganan, C.
11-13-07

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
Total Postage & Fees		

← TEAR ALONG THIS LINE

Label #3

Jonathan D. Cooper
State of California
Office of the Attorney General
Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102

US Postal Service

POSTMARK OR DATE

**Receipt for
Certified Mail**

No Insurance Coverage Provided
Do Not Use for International Mail

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

Cheryllyn O. Danganan
949 Cashew Way
Fremont, CA 94563

Charge
Amount:

Charge
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



7160 3901 9849 6400 4537

RETURN RECEIPT REQUESTED

2. Article Number



7160 3901 9849 6400 4537

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Cheryllyn O. Danganan
949 Cashew Way
Fremont, CA 94563

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

Agent
 Addressee

X

D. Is delivery address different from item 1?
If YES, enter delivery address below:

Yes
 No

RETURN RECEIPT REQUESTED
USPS MAIL CARRIER
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

Accus. Packet/Danganan, C. 11-13-07

Jonathan D. Cooper

Thank you for using Return Receipt Service