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6	BEFORE THE BOARD OF PHARMACY		
7	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
8]	
9	In the Matter of the Accusation Against:	Case No. 3494	
10		OAH No. L-2010080344	
11	ERROL R. GERALDE 16027 E. Ranch Lane	DEFAULT DECISION AND ORDER	
12	La Mirada, CA 90638 Pharmacy Technician Registration No. TCH	[Gov. Code, §11520]	
13	68671	,	
14			
15	Respondent.		
16			
17	FINDINGS OF FACT		
18	1. On or about June 10, 2010, Complainant Virginia Herold, in her official capacity as		
19	the Executive Officer of the Board of Pharmacy	, Department of Consumer Affairs, filed	
20	Accusation No. 3494 against Errol R. Geralde (I	Respondent) before the Board of Pharmacy.	
21	(Accusation attached as Exhibit A.)		
22	2. On or about April 18, 2006, the Boa	rd of Pharmacy (Board) issued Pharmacy	
23	Technician Registration No: TCH 68671 to Resp	oondent. The Pharmacy Technician Registration	
24	was in full force and effect at all times relevant t	to the charges brought herein and will expire on	
25	February 29, 2012, unless renewed.	•	
26	3. On or about June 17, 2010, Respond	lent was served by Certified and First Class Mail	
27	copies of the Accusation No. 3494, Statement to	Respondent, Notice of Defense, Request for	
28	Discovery, and Discovery Statutes (Government	t Code sections 11507.5, 11507.6, and 11507.7) at	
		1	
Ì	DEFA	ULT DECISION AND ORDER (OAH No. L-2010080344)	

Respondent's address of record which, pursuant to Business and Professions Code section 136 1 and/or agency specific statute or regulation, is required to be reported and maintained with the 2 Board, which was and is: 16027 E. Ranch Lane, La Mirada, CA 90638. 3

Service of the Accusation was effective as a matter of law under the provisions of 4. 4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section 5 124. 6

On or about June 30, 2010, Respondent signed and returned a Notice of Defense, 5. 7 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's 8 address of record and it informed him that an administrative hearing in this matter was scheduled 9 for December 27, 2010. Respondent failed to appear at that hearing. 10

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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.

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

(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.

Pursuant to its authority under Government Code section 11520, the Board finds 8. 19 Respondent is in default. The Board will take action without further hearing and, based on the 20 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, 21 as well as taking official notice of all the investigatory reports, exhibits and statements contained 22 therein on file at the Board's offices regarding the allegations contained in Accusation No. 3494, 23 finds that the charges and allegations in Accusation No. 3494, are separately and severally true 24 and correct by clear and convincing evidence. 25 26

Taking official notice of its own internal records, pursuant to Business and 9.

Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation 27

and Enforcement is \$3,639.00 as of December 20, 2010. 28

1	DETERMINATION OF ISSUES	
2	1. Based on the foregoing findings of fact, Respondent Errol R. Geralde has subjected	
3	his Pharmacy Technician Registration No. TCH 68671 to discipline.	
4	2. The agency has jurisdiction to adjudicate this case by default.	
5	3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician	
6	Registration based upon the following violations alleged in the Accusation which are supported	
7	by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.:	
8	a. Violation of Code sections 490, 4300, 4301, subdivision (1), on the grounds of	
9	unprofessional conduct in conjunction with California Code of Regulations, title 16, section 1770,	
10	in that on or about October 30, 2006, Respondent was convicted of a crime substantially related	
11	to the qualifications, functions or duties of a registered pharmacy technician.	
12	b. Violation of Code sections 4300 and 4301, subdivision (k), on the grounds of	
13	unprofessional conduct, in that Respondent was convicted of misdemeanors and felonies drugs	
14	and alcohol.	
15	c. Violation of Code sections 4300 and 4301, subdivision (h), on the grounds of	
16	unprofessional conduct, in that Respondent used alcohol/drugs to the extent or in a manner as to	
17	be dangerous or injurious to himself or others.	
18	d. Violation of Code sections 4300 and 4301, subdivision (j), on the grounds of	
19	unprofessional conduct in conjunction with section 4060, in that Respondent illegally possessed a	
20	controlled substance.	
21	e. Violation of Code sections 4300 and 4301, subdivision (f), on the grounds of	
22	unprofessional conduct, in that Respondent committed acts involving moral turpitude, dishonesty	
23	fraud, deceit and / or corruption.	
24	f. Violation of Code sections 4300 and 4301, subdivision (0), in that Respondent	
25	committed acts constituting unprofessional conduct.	
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	DEFAULT DECISION AND ORDER (OAH No. L-2010080344	

1	ORDER	
2	IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 68671, heretofore	
3	issued to Respondent Errol R. Geralde, is revoked.	
4	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a	
5	written motion requesting that the Decision be vacated and stating the grounds relied on within	
6	seven (7) days after service of the Decision on Respondent. The agency in its discretion may	
7	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.	
8	This Decision shall become effective on May 11, 2011.	
9	It is so ORDERED April 11, 2011.	
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12	STANLEY C. WEISSER, BOARD PRESIDENT	
13	FOR THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
14		
15	default decision_LIC.rtf DOJ Matter ID:LA2009604488	
16	Attachment:	
17	Exhibit A: Accusation	
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	4 DEFAULT DECISION AND ORDER (OAH No. L-2010080344)	

Exhibit A

Accusation

1 2 3 4 5 6 7 8 9	EDMUND G. BROWN JR. Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney General MICHELLE MCCARRON Deputy Attorney General State Bar No. 237031 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2544 Facsimile: (213) 897-2544 Attorneys for Complainant BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Accusation Against: Case No. 3494
12	ERROL R. GERALDE 16027 E. Ranch Lane
13	La Mirada, CA 90638 A C C U S A T I O N
14	Pharmacy Technician Registration No. TCH 68671
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 (Board).
22	2. On or about April 18, 2006, the Board issued Pharmacy Technician Registration No.
23	TCH 68671 to Errol R. Geralde (Respondent). The Pharmacy Technician Registration was in full
24	force and effect at all times relevant to the charges brought herein and will expire on February 29,
25	2012, unless renewed.
26	JURISDICTION
27	3. This Accusation is brought before the Board under the authority of the following
28	laws. All section references are to the Business and Professions Code unless otherwise indicated.
	1 Accusation

AGO - 00011

1	4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or	
2	cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary	
3	action during the period within which the license may be renewed, restored, reissued or	
4	reinstated.	
5	STATUTORY PROVISIONS	
6	5. Section 490 provides that a board may suspend or revoke a license on the ground that	
7	the licensee has been convicted of a crime substantially related to the qualifications, functions, or	
8	duties of the business or profession for which the license was issued.	
9	6. Section 4060 provides that no person shall possess any controlled substance, except	
10	that furnished to a person upon the prescription of a physician or other licensed authorized	
11	professional.	
12	7. Section 4300 states that "[e]very license issued may be suspended or revoked."	
13	8. Section 4301 states, in pertinent part:	
14	"The board shall take action against any holder of a license who is guilty of unprofessional	
15	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.	
16	Unprofessional conduct shall include, but is not limited to, any of the following:	
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18	"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or	
19	corruption, whether the act is committed in the course of relations as a licensee or otherwise, and	
20	whether the act is a felony or misdemeanor or not.	
21	••••	
22	"(h) The administering to oneself, of any controlled substance, or the use of any dangerous	
23	drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to	
24	oneself, to a person holding a license under this chapter, or to any other person or to the public, or	
25	to the extent that the use impairs the ability of the person to conduct with safety to the public the	
26	practice authorized by the license.	
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	Accusation	

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"(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.

"(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.

"(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter....

"(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 or by any other state or federal regulatory agency. . . ."

REGULATORY PROVISIONS

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

14 "For the purpose of denial, suspension, or revocation of a personal or facility license 15 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a 16 crime or act shall be considered substantially related to the qualifications, functions or duties of a 17 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a 18 licensee or registrant to perform the functions authorized by his license or registration in a manner 19 consistent with the public health, safety, or welfare."

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COST RECOVERY

10. Section 125.3 states, 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.

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

11. Methamphetamine is a Schedule II controlled substance as designated by Health and
Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to
Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Convictions of Substantially Related Crimes)

12. Respondent is subject to disciplinary action pursuant to Code sections 490, 4300, 4301, subdivision (1), on the grounds of unprofessional conduct in conjunction with California Code of Regulations, title 16, section 1770, in that on or about October 30, 2006, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a registered pharmacy technician which to a substantial degree evidence his present or potential unfitness to perform the functions authorized by his registration in a manner consistent with the public health, safety, or welfare, as follows:

a. On or about October 30, 2006, after pleading guilty, in the criminal proceeding 10 entitled The People of the State of California v Errol Ramos Geralde (Super. Ct. Orange County, 11 2006, No. 06WF3194), Respondent was convicted of two (2) felonies: violating Health and 12 Safety code 11370.1 [possession of a controlled substance with firearm]; and Health and Safety 13 Code 11377(a) [possession of a controlled substance, to wit, methamphetamine]. In conjunction 14 with the felony convictions, Respondent was also convicted of three (3) misdemeanors: violating 15 Penal Code sections 12025(a)(1)/(b)(6) [having a concealed firearm in vehicle]; Vehicle Code 16 section 23152(a) [driving under the influence of alcohol/drugs]; and violating Vehicle Code 17 section 23152(b) [driving with blood alcohol 0.08% or more]. The Court sentenced Respondent 18 to 120 days in jail, placed him on three (3) years probation, ordered him to register as a narcotics 19 offender and submit to DNA testing, ordered him to complete a three (3) month First Offender 20 Alcohol Program and ordered him to seek training, schooling or employment and maintain a 21 residence. 22

b. The circumstances underlying the five (5) convictions are that on or about
October 21, 2006, Respondent was involved in a single vehicle non-injury traffic collision.
Respondent was driving while under the influence of alcohol and had BAC consecutive test
results of 0.106, 0.115 and 0.09. Respondent was found in possession of methamphetamine and a
loaded hand gun.

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1	SECOND CAUSE FOR DISCIPLINE	
2	(Drug/Alcohol Related Convictions)	
3	13. Respondent is subject to disciplinary action pursuant to Code sections 4300 and 4301,	
4	subdivision (k), on the grounds of unprofessional conduct, in that on or about October 30, 2006,	
5	Respondent was convicted of misdemeanors and felonies involving methamphetamine and	
6	alcohol, their use, consumption or self-administration. Complainant refers to, and by this	
7	reference incorporates, the allegations set forth above in paragraph 12, subparagraphs (a) and (b),	
8	as though set forth fully.	
9	THIRD CAUSE FOR DISCIPLINE	
10	(Dangerous Use of Alcohol/Drugs)	
11	14. Respondent is subject to disciplinary action pursuant to Code sections 4300 and 4301,	
12	subdivision (h), on the grounds of unprofessional conduct, in that Respondent used alcohol/drugs	
13	to the extent or in a manner as to be dangerous or injurious to himself or others and / or to the	
14	extent that his use impairs his ability to conduct with safety to the public the practice authorized	
15	by his license. Complainant refers to, and by this reference incorporates, the allegations set forth	
16	above in paragraphs 12 and 13 inclusive, as though set forth fully.	
17	FOURTH CAUSE FOR DISCIPLINE	
18	(Illegal Possession of Controlled Substances)	
19	15. Respondent is subject to disciplinary action pursuant to Code sections 4300 and 4301,	
20	subdivision (j), on the grounds of unprofessional conduct in conjunction with section 4060, in that	
21	on or about October 21, 2006, Respondent was in possession of a controlled substances without a	
22	valid prescription. Complainant refers to, and by this reference incorporates, the allegations set	
23	forth above in paragraphs 12 through 14, inclusive, as though set forth fully.	
24	FIFTH CAUSE FOR DISCIPLINE	
25	(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)	
26	16. Respondent is subject to disciplinary action pursuant to Code sections 4300 and 4301,	
27	subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts	
28	involving moral turpitude, dishonesty, fraud, deceit and / or corruption. Complainant refers to,	
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	Accusation	

Accusation

AGO - 00015

1	and by this reference incorporates, the allegations set forth above in paragraphs 12 through 15,	
2	inclusive, as though set forth fully.	
3	SIXTH CAUSE FOR DISCIPLINE	
4	(Unprofessional Conduct/Violating Pharmacy Law)	
5	17. Respondent is subject to disciplinary action pursuant to Code sections 4300 and 4301,	
6	subdivision (o), in that Respondent committed acts constituting unprofessional conduct.	
7	Complainant refers to, and by this reference incorporates, the allegations set forth above in	
. 8	paragraphs 12 through 16, inclusive, as though set forth fully.	
9		
10	PRAYER	
11	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
12	and that following the hearing, the Board issue a decision:	
13	1. Revoking or suspending Pharmacy Technician Registration No. TCH 68671, issued	
14	to Respondent;	
15	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and	
16	enforcement of this case, pursuant to section 125.3; and	
17	3. Taking such other and further action as deemed necessary and proper.	
18		
19 20	DATED: 6/10/10 Virginia afeild	
21	DATED:	
22	Executive Officer Board of Pharmacy	
23	Department of Consumer Affairs State of California	
24	Complainant	
25	LA2009604488	
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