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

In the Matter of the Accusation Against:

**VICENTE CASTANEDA**  
220 S. Gage Ave  
Los Angeles, CA 90063  
Pharmacy Technician Registration No. TCH  
72999

Respondent.

Case No. 4036

**DEFAULT DECISION AND ORDER.**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about June 15, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4036 against Vicente Castaneda ("Respondent") before the Board of Pharmacy.

2. On or about November 9, 2006, the Board of Pharmacy ("Board") issued Pharmacy Technician Registration No. TCH 72999 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4036 and will expire on March 31, 2014, unless renewed.

3. On or about June 29, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4036, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100,

1 is required to be reported and maintained with the Board. Respondent's address of record with  
2 the Board was and is:

3 **220 S. Gage Ave**  
4 **Los Angeles, CA 90063.**

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

7 5. The aforementioned documents were not returned by the U.S. Postal Service marked  
8 as undeliverable.

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
17 4036.

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

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

23 9. Pursuant to its authority under Government Code section 11520, the Board finds  
24 Respondent is in default. The Board will take action without further hearing and, based on the  
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
27 file at the Board's offices regarding the allegations contained in Accusation No. 4036, finds that  
28 the charges and allegations in Accusation No. 4036, are separately and severally, found to be true  
and correct by clear and convincing evidence.

1           10. Taking official notice of its own internal records, pursuant to Business and  
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
3 and Enforcement is \$1,492.50 as of July 20, 2012.

4   **DETERMINATION OF ISSUES**

5           1. Based on the foregoing findings of fact, Respondent Vicente Castaneda has subjected  
6 his Pharmacy Technician Registration No. TCH 72999 to discipline.

7           2. The agency has jurisdiction to adjudicate this case by default.

8           3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
9 Registration based upon the following violations alleged in the Accusation which are supported  
10 by the evidence contained in the Default Decision Evidence Packet in this case.

11           4. **Conviction of a Substantially-Related Crime.** Respondent is subject to disciplinary  
12 action under sections 4301, subdivision (l) and 490, in conjunction with California Code of  
13 Regulations, title 16, section 1770, in that Respondent has been convicted of a crime substantially  
14 related to the qualifications, functions or duties of a pharmacy technician as follows:

15           a. On or about January 12, 2011, in the criminal matter entitled *The People of the*  
16 *State of California v. Vicente Castaneda* (Super. Ct. Los Angeles County, 2010, No. BA376000),  
17 Respondent was convicted of one felony count of violating Health and Safety Code section  
18 11379, subdivision (a), transportation of a controlled substance. Respondent was sentenced to  
19 serve 120 days in jail, placed on probation for three years, and fined. The circumstances  
20 surrounding the convictions are that on or about August 26, 2010, a deputy with the Los Angeles  
21 Sheriff's Department performed a routine traffic stop on a vehicle that was missing a front license  
22 plate. The driver of the vehicle was later identified as Respondent. Upon approaching the  
23 vehicle, the deputy observed the passenger toss a zip-lock bag containing a white substance to the  
24 passenger floor board. During further investigation, the deputy recovered the zip-lock bag which  
25 contained methamphetamine. During a consented search of Respondent's person, the deputy  
26 recovered two plastic baggies containing a white crystal like substance, ninety-six plastic baggies  
27 from Respondent's right front pocket, and a digital scale from his left front pocket.

1           5.    **Violating Drug Statutes.** Respondent is subject to disciplinary action under section  
2 4301, subdivision (j), for violating Health and Safety Code section 11379, in that Respondent  
3 transported methamphetamine, a controlled substance, without a valid prescription. Complainant  
4 refers to, and this reference incorporates, the allegations as set forth in paragraph 4, subparagraph  
5 (a), inclusive, above, as though set forth fully.

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**ORDER**

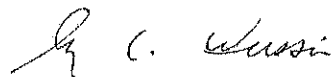
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 72999, heretofore  
issued to Respondent Vicente Castaneda, is revoked.

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 October 22, 2012.

It is so ORDERED ON September 21, 2012

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
STANLEY C. WEISSER  
Board President

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DOJ Matter ID:LA2011600561

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 RANDY M. MAILMAN  
Deputy Attorney General  
4 State Bar No. 246134  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2442  
6 Facsimile: (213) 897-2804

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 **VICENTE CASTANEDA**  
220 S. Gage Ave  
13 Los Angeles, CA 90063  
14 Pharmacy Technician Registration No. TCH  
72999  
15  
16 Respondent.

Case No. 4036

**A C C U S A T I O N**

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 22 2. On or about November 9, 2006, the Board of Pharmacy ("Board") issued Pharmacy  
23 Technician Registration No. TCH 72999 to Vicente Castaneda ("Respondent"). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on March 31, 2014, unless renewed.

26 ///

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 STATUTORY PROVISIONS

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

10 5. Section 490 states, in pertinent part:

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

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

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

25 6. Section 4300 states, in pertinent part, that every license issued by the Board is subject  
26 to discipline, including suspension or revocation.

27 7. Section 4301 of the Code states:  
28

1 "The board shall take action against any holder of a license who is guilty of unprofessional  
2 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

3 Unprofessional conduct shall include, but is not limited to, any of the following:

4 . . . .

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

7 . . . .

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

25 **REGULATORY PROVISIONS**

26 8. California Code of Regulations, title 16, section 1770, states, in pertinent part:

27 "For the purpose of denial, suspension, or revocation of a personal or facility license  
28 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a

1 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
2 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
3 licensee or registrant to perform the functions authorized by his license or registration in a manner  
4 consistent with the public health, safety, or welfare.”

5 **COST RECOVERY**

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

10 **CONTROLLED SUBSTANCE-DANGEROUS DRUG**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Substantially-Related Crime)**

16 11. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
17 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
18 Respondent has been convicted of a crime substantially related to the qualifications, functions or  
19 duties of a pharmacy technician as follows:

20 a. On or about January 12, 2011, in the criminal matter entitled *The People of the State*  
21 *of California v. Vicente Castaneda* (Super. Ct. Los Angeles County, 2010, No. BA376000),  
22 Respondent was convicted of one felony count of violating Health and Safety Code section  
23 11379, subdivision (a), transportation of a controlled substance. Respondent was sentenced to  
24 serve 120 days in jail, placed on probation for three years, and fined. The circumstances  
25 surrounding the convictions are that on or about August 26, 2010, a deputy with the Los Angeles  
26 Sheriff's Department performed a routine traffic stop on a vehicle that was missing a front license  
27 plate. The driver of the vehicle was later identified as Respondent. Upon approaching the  
28 vehicle, the deputy observed the passenger toss a zip-lock bag containing a white substance to the



1 passenger floor board. During further investigation, the deputy recovered the zip-lock bag which  
2 contained methamphetamine. During a consented search of Respondent's person, the deputy  
3 recovered two plastic baggies containing a white crystal like substance, ninety-six plastic baggies  
4 from Respondent's right front pocket, and a digital scale from his left front pocket.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Violating Drug Statutes)**

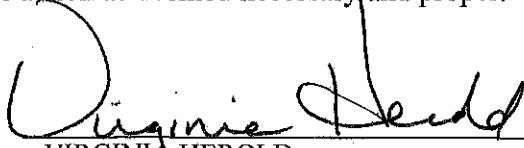
7 12. Respondent is subject to disciplinary action under section 4301, subdivision (j), for  
8 violating Health and Safety Code section 11379, in that Respondent transported  
9 methamphetamine, a controlled substance, without a valid prescription. Complainant refers to,  
10 and this reference incorporates, the allegations as set forth in paragraph 11, subparagraph (a),  
11 inclusive, above, as though set forth fully.

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacy Technician Registration No. TCH 72999, issued  
16 to Vicente Castaneda;
- 17 2. Ordering Vicente Castaneda to pay the Board the reasonable costs of the investigation  
18 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 19 3. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: 6/15/12

  
22 VIRGINIA HEROLD  
23 Executive Officer  
24 Board of Pharmacy  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant

28 LA2011600561