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8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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11	In the Matter of the Accusation Against:	Case No. 4113	
12	MARIA ELENA SANTOS	DEFAULT DECISION AND ORDER	
13	335 N. Vendome Street Los Angeles, CA 90026	[Gov. Code, §11520]	
14	Pharmacy Technician Registration No. TCH 25616	[Oov. Code, §11520]	
15	Respondent.		
16	Respondent.		
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18	FINDINGS OF FACT		
19	1. On or about March 1, 2013, Complainant Virginia Herold, in her official capacity as		
20	the Executive Officer of the Board of Pharmacy, (Board) Department of Consumer Affairs, filed		
21	Accusation No. 4113 against Maria Elena Santos (Respondent) before the Board of Pharmacy.		
22	(Accusation attached as Exhibit A.)		
23	2. On or about April 27, 1998, the Board of Pharmacy (Board) issued Pharmacy		
24	Technician Registration No. TCH 25616 to Respondent. The Pharmacy Technician Registration		
25	was in full force and effect at all times relevant	to the charges brought in Accusation No. 4113	
26	and expired on August 31, 2013, and has not bee	en renewed. This lapse in licensure, however,	
27	pursuant to Business & Professions Code section 118(b) and or agency specific statute does not		
28	deprive the board of its authority to institute or continue this disciplinary proceeding.		
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3. On or about April 26, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4113, 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, is required to be reported and maintained with the Board. Respondent's address of record was and is:

335 N. Vendome Street Los Angeles, CA 90026.

- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.
- 5. On May 4, 2013, the aforementioned documents were returned by the U.S. Postal Service marked "Unable to forward."
 - 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. 4113.
 - 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 finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 4113, finds that

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the charges and allegations in Accusation No. 4113, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$3,140.00 as of November 12, 2013.

DETERMINATION OF ISSUES

- 1. Based on the foregoing findings of fact, Respondent Maria Elena Santos has subjected her Pharmacy Technician Registration No. TCH 25616 to discipline.
 - 2. The agency has jurisdiction to adjudicate this case by default.
- 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:
- Respondent is subject to disciplinary action under sections 4301, subdivisions (j) and (o), for violating section 4060, in that Respondent was found to be in illegal possession of a controlled substance. On or about November 2, 2010, during a traffic stop by the Riverside County Sheriff's Department, the officer observed Respondent to have dilated pupils and a slow reaction to the officer's flashlight. Through training and experience of the officer, Respondent showed objective symptoms of being under the influence of a central nervous stimulant, such as twitching and rapid speech. The officer conducted an initial evaluation of Respondent and found her to have excessive eye-lid flutter, a white chalky mouth, and a pulse rate of 112bpm, which was well above the normal pulse rate of 60 to 90bpm. When asked when was the last time she used illegal drugs, Respondent admitted that she had smoked Methamphetamine in the vehicle. In addition, Respondent admitted that she had used Methamphetamine for several months. Additionally, Respondent admitted that the Methamphetamine and the pipes belonged to her. She was subsequently arrested for violating Health and Safety Code section 11377, subdivision (a) [possession of a controlled substance], Health and Safety Code section 11550, subdivision (a) [under the influence of a controlled substance], and Health and Safety Code section 11364 [possession of drug paraphernalia].

1	12. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and		
2	(j), in that on or about November 2, 2010, Respondent, by her own admission, used and/or was		
3	under the influence of a controlled substance. Complainant refers to, and by this reference		
4	incorporates, the allegations set forth above in paragraph 11, as though set forth in full.		
5	<u>ORDER</u>		
6	IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 25616, heretofore		
7	issued to Respondent Maria Elena Santos, is revoked.		
8	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a		
9	written motion requesting that the Decision be vacated and stating the grounds relied on within		
10	seven (7) days after service of the Decision on Respondent. The agency in its discretion may		
11	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.		
12	This Decision shall become effective on February 18, 2014.		
13	It is so ORDERED ON January 17, 2014.		
14	BOARD OF PHARMACY		
15	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
16			
17	By (. Weisser		
18	By STANC WEISSER		
19	Board President		
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21	51402802, DOC DOJ Matter ID:LA2011601137		
22	Attachment:		
23	Exhibit A: Accusation		
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2	Supervising Deputy Attorney General CHRISTINA THOMAS		
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6	Telephone: (213) 897-2557 Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
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10	STATE OF CAL	IFURNIA	
11	In the Matter of the Accusation Against:	3T- 4110	
12	MARIA ELENA SANTOS	se No. 4113	
13	335 N. Vendome Street	CCUSATION	
14	· II		
15	Pharmacy Technician Registration No. TCH 25616		
16	Respondent.		
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18	Complainant alleges:		
19	PARTIE	<u>s</u>	
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 27, 1998, the Board of Pharmacy issued Pharmacy Technician		
23	Registration No. TCH 25616 to Maria Elena Santos, aka Maria Elena Andres (Respondent). Th		
24	Pharmacy Technician Registration was in full force and effect at all times relevant to the charge		
25	brought herein and it will expire on August 31, 2013, unless renewed.		
26	<u>JURISDICTION</u>		
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		

STATUTORY PROVISIONS

- 4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 5. Section 4060 states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, 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, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, 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."

- 6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.
 - 7. Section 4301 states, in pertinent part:

"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.

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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.

. . .

- "(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."
 - 8. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

"No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances."

COST RECOVERY

9. 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.

10. CONTROLLED SUBSTANCE

"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 section 4022.

FIRST CAUSE FOR DISCIPLINE

(Illegal Possession of a Controlled Substance)

11. Respondent is subject to disciplinary action under sections 4301, subdivisions (j) and (o), for violating section 4060, in that Respondent was found to be in illegal possession of a

controlled substance. On or about November 2, 2010, during a traffic stop by the Riverside 2 County Sheriff's Department, the officer observed Respondent to have dilated pupils and a slow reaction to the officer's flashlight. Through training and experience of the officer, Respondent 3 showed objective symptoms of being under the influence of a central nervous stimulant, such as 4 twitching and rapid speech. The officer conducted an initial evaluation of Respondent and found 5 her to have excessive eye-lid flutter, a white chalky mouth, and a pulse rate of 112bpm, which 6 was well above the normal pulse rate of 60 to 90bpm. When asked when was the last time she 7 used illegal drugs. Respondent admitted that she had smoked Methamphetamine in the vehicle. 8 In addition, Respondent admitted that she had used Methamphetamine for several months. 9 Additionally, Respondent admitted that the Methamphetamine and the pipes belonged to her. She 10 was subsequently arrested for violating Health and Safety Code section 11377, subdivision (a) 11 [possession of a controlled substance], Health and Safety Code section 11550, subdivision (a) 12 [under the influence of a controlled substance], and Health and Safety Code section 11364 13 [possession of drug paraphernalia]. 14 SECOND CAUSE FOR DISCIPLINE 15 (Use/Under Influence of a Controlled Substance) 16 Respondent is subject to disciplinary action under section 4301, subdivisions (h) and 12. 17 (i), in that on or about November 2, 2010, Respondent, by her own admission, used and/or was. 18 under the influence of a controlled substance. Complainant refers to, and by this reference 19 incorporates, the allegations set forth above in paragraph 11, as though set forth in full. 20 PRAYER 21

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

Revoking or suspending Pharmacy Technician Registration No. TCH 25616, issued to Respondent;

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1	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and		
2	enforcement of this case, pursuant to section 125.3; and,		
3	3. Taking such other and further action as deemed necessary and proper		
4	DATED: 3/1/3 () Laine Steel		
5	VIRGINIA HEROLD Executive Officer		
6	Board of Pharmacy Department of Consumer Affairs		
7	State of California Complainant		
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