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

In the Matter of the Accusation Against:
TERESSA ANGELA DE LONG
1005 La Terrace Circle
San Jose, CA 95123
Pharmacy Technician License No. TCH 20845
Respondent.

Case No. 4383
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 8, 2012, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4383 against Teressa Angela De Long (Respondent) before the Board of Pharmacy. (A copy of the Accusation is attached as exhibit A.)
2. On or about December 13, 1996, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 20845 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4383. The License expired on December 31, 2012, and has not been renewed. Pursuant to Business and Professions Code section 4300.1, this lapse in licensure does not deprive the Board of its authority and jurisdiction to institute or continue this disciplinary proceeding.

1 3. On or about November 16, 2012, Respondent was served by Certified and First Class
2 Mail with copies of: Accusation No. 4383; a Statement to Respondent, a Notice of Defense; a
3 Request for Discovery; and Discovery Statutes (Gov.Code, §§ 11507.5, 11507.6, 11507.7) at
4 Respondent's address of record, which was and is: 1005 La Terrace Circle, San Jose, CA 95123.

5 4. Pursuant to Business and Professions Code section 136 and/or 4100, and/or California
6 Code of Regulations, title 16, section 1704, Respondent's address of record, and any changes
7 thereto, are required to be reported and maintained with the Board of Pharmacy (Board).

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

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

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

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4383.

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. 4383, finds that
28 the charges and allegations in Accusation No. 4383, are separately and severally, found to be true
and correct by clear and convincing evidence.

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1 d. Respondent's License is subject to revocation pursuant to Business and Professions
2 Code section 4301(j) or (o), and/or Health and Safety Code section 11364, in that Respondent, as
3 described above, possessed, conspired to possess, and/or assisted in or abetted possession of,
4 controlled substance paraphernalia.

5 e. Respondent's License is subject to revocation pursuant to Business and Professions
6 Code section(s) (j) and/or (o), and/or Health and Safety Code section(s) 11170 and/or 11550, for
7 self-administration of a controlled substance, in that Respondent, as described above, self-
8 administered/used, conspired to self-administer/use, and/or assisted in or abetted self-
9 administration/use of a controlled substance.

10 f. Respondent's License is subject to revocation pursuant to Business and Professions
11 Code section 4301, in that Respondent, as described above, engaged in unprofessional conduct.

12
13 ORDER

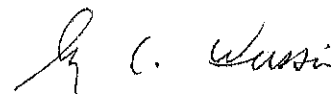
14 IT IS SO ORDERED that Pharmacy Technician License No. TCH 20845, heretofore issued
15 to Respondent Teresa Angela De Long, is revoked.

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

20 This Decision shall become effective on April 17, 2013.

21 It is so ORDERED ON March 18, 2013.

22 BOARD OF PHARMACY
23 DEPARTMENT OF CONSUMER AFFAIRS
24 STATE OF CALIFORNIA

25 

26 By _____
27 STANLEY C. WEISSER
28 Board President

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DOJ Matter ID:SF2012402511

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4383

11 **TERESSA ANGELA DE LONG**
12 **1005 La Terrace Circle**
13 **San Jose, CA 95123**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 20845**

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about December 13, 1996, the Board of Pharmacy issued Pharmacy Technician
21 License No. TCH 20845 to Teressa Angela De Long (Respondent). The Pharmacy Technician
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on December 31, 2012, unless renewed.

24
25 JURISDICTION

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

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable
3 federal and state laws and regulations governing pharmacy, including regulations established by
4 the board or by any other state or federal regulatory agency.

5 7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
6 revoke a license when it finds that the licensee has been convicted of a crime substantially related
7 to the qualifications, functions or duties of the license.

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

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

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

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

19 11. Health and Safety Code section 11357, in pertinent part, makes it unlawful for any
20 person to possess **marijuana** or concentrated cannabis.

21 12. Health and Safety Code section 11364, in pertinent part, makes it unlawful to possess
22 an opium pipe or other paraphernalia used to inject or smoke controlled substances.

23 13. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess
24 any controlled substance in Schedule II, subdivision (d), without a prescription.

25 14. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any
26 person to use or be under the influence of any controlled substance in Schedule II (Health and
27 Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules III-V,
28 except when administered by or under the direction of an authorized licensee.

1 COST RECOVERY

2 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation of the licensing
4 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.
5

6 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

7 16. Section 4021 of the Code states:

8 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
9 11053) of Division 10 of the Health and Safety Code.”

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

11 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
12 except veterinary drugs that are labeled as such, and includes the following:

13 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
14 prescription,’ ‘Rx only,’ or words of similar import.

15 ...

16 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
17 prescription or furnished pursuant to Section 4006.

18 18. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety
19 Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions
20 Code section 4022. It is a hallucinogenic drug.

21 19. **Methamphetamine** is a Schedule II controlled substance as designated by Health and
22 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions
23 Code section 4022. It is a stimulant drug.
24

25 FACTUAL BACKGROUND

26 20. On or about February 2, 2002, the San Jose Police Department responded to a “911”
27 call at a residence, where they encountered Respondent. The officers observed signs that
28 Respondent was under the influence of a controlled substance.

1 a. On or about February 14, 2011, based on the conduct described in paragraphs
2 22 and 23, Respondent was charged in Case No. C1199890 with violating (1) Health and Safety
3 Code section 11377(a) (Possession of controlled substance – **methamphetamine**), a
4 misdemeanor, (2) Health and Safety Code section 11364 (Possession of Controlled Substance
5 Paraphernalia), a misdemeanor, and (3) Health and Safety Code section 11550 (Using or Being
6 Under the Influence of Controlled Substance – **methamphetamine**), a misdemeanor.

7 b. On or about March 25, 2011, Respondent pleaded guilty to the charges upon a
8 confirmed factual basis, and was granted entry into a Deferred Entry of Judgment (DEJ) program.

9 c. On or about January 25, 2012, Respondent was convicted of all three charges in
10 the Complaint. Imposition of sentence was suspended in favor of a term of formal probation of
11 two (2) years, on terms and conditions including substance abuse treatment, fines, and fees.

12 SECOND CAUSE FOR DISCIPLINE

13 (Self-Administration of Controlled Substance(s))

14 24. Respondent is subject to discipline under section 4301(h) of the Code, in that
15 Respondent, as described in paragraph(s) 20, 21, and/or 22, self-administered one or more
16 controlled substances, on one or more occasions.

17 THIRD CAUSE FOR DISCIPLINE

18 (Possession of Controlled Substance(s))

19 25. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
20 4060 of the Code, and/or Health and Safety Code section(s) 11357 and/or 11377, in that
21 Respondent, as described in paragraph(s) 20, 21, and/or 22, possessed, conspired to possess,
22 and/or assisted in or abetted possession of a controlled substance, without a prescription.

23 FOURTH CAUSE FOR DISCIPLINE

24 (Possession of Drug Paraphernalia)

25 26. Respondent is subject to discipline under section 4301(j) and/or (o), and/or Health
26 and Safety Code section 11364, in that Respondent, as described in paragraph(s) 20, 21, and/or 22
27 possessed, conspired to possess, and/or assisted in/abetted possession of drug paraphernalia.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Self-Administration/Use of Controlled Substance(s))

3 27. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
4 and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in
5 paragraph(s) paragraph(s) 20, 21, and/or 22, self-administered/used, conspired to self-
6 administer/use, and/or assisted in/abetted self-administration/use of a controlled substance.

7 SIXTH CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct)

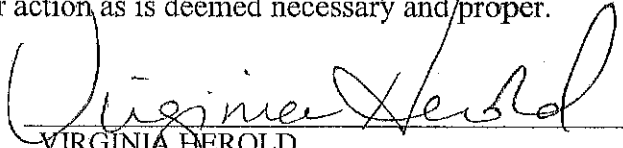
9 28. Respondent is subject to discipline under section 4301 of the Code in that
10 Respondent, as described in paragraph(s) 20-27, engaged in unprofessional conduct.

11
12
13 PRAYER

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

- 16 1. Revoking or suspending Pharmacy Technician License No. TCH 20845, issued to
17 Teresa Angela De Long (Respondent);
- 18 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
19 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 20 3. Taking such other and further action as is deemed necessary and proper.

21 DATED: 11/8/12

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

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