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

In the Matter of the Accusation Against:	Case No. 4558
LILIAN GRISSEL FLORES **28019 Roblin Avenue** **Santa Clarita, CA 91350**	**DEFAULT DECISION AND ORDER**
	[Gov. Code, §11520]
Pharmacy Technician Registration No. TCH87080	
Respondent.	

FINDINGS OF FACT

1. On or about September 6, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4558 against Lilian Grissel Flores (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 1, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH87080 to Respondent. The Pharmacy Technician Registration expired on January 31, 2013, and has not been renewed.

3. On or about September 19, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4558, 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: 28019 Roblin Avenue, Santa Clarita, CA 91350.

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 or about October 18, 2013, the aforementioned documents were returned by the U.S. Postal Service marked "Return to Sender. Unclaimed. Unable to Forward. Return to Sender." The address on the documents was the same as the address on file with the Board. Respondent failed to maintain an updated address with the Board and the Board has made attempts to serve the Respondent at the address on file. Respondent has not made herself available for service and therefore, has not availed herself of her right to file a notice of defense and appear at hearing.

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. 4558.

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. 4558, finds that the charges and allegations in Accusation No. 4558, 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 $1,377.50 as of December 9, 2013.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Lilian Grissel Flores has subjected her Pharmacy Technician Registration No. TCH87080 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.:

a. Respondent is subject to disciplinary action under Business and Professions Code sections 4060, 4300, 4301, subdivision (j), on the grounds of unprofessional conduct, in that on or about July 22, 2012, Respondent was in possession of a tested 0.15 grams of methamphetamine, without a valid prescription.

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH87080, heretofore issued to Respondent Lilian Grissel Flores, 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 27, 2014.

It is so ORDERED ON February 25, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STAN C. WEISSER
Board President

51439246.DOC
DOJ Matter ID:LA2013508844

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
GILLIAN E. FRIEDMAN
Deputy Attorney General
State Bar No. 169207
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2564
Facsimile: (213) 897-2804

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

In the Matter of the Accusation Against: **LILIAN GRISSEL FLORES** 28019 Roblin Avenue Santa Clarita, CA 91350 Pharmacy Technician Registration No. TCH 87080 Respondent.	Case No. 4558 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about January 16, 2009, the Board issued Pharmacy Technician Registration No. TCH 87080 to Lilian Grissel Flores (Respondent). The Pharmacy Technician Registration expired on January 31, 2013, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

STATUTORY PROVISIONS

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

6. Section 4060 states:

"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, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. 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.

"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices."

7. Section 4300, subdivision (a), provides that "[e]very license issued may be suspended or revoked."

8. Section 4301 states:

"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:

. . . .

"(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. . . ."

COST RECOVERY

9. Section 125.3 provides 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.

CONTROLLED SUBSTANCE / DANGEROUS DRUG

10. 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.

CAUSE FOR DISCIPLINE

(Possession of a Controlled Substance - Methamphetamine)

11. Respondent is subject to disciplinary action under sections 4060, 4300, 4301, subdivision (j), on the grounds of unprofessional conduct, in that on or about July 22, 2012, Respondent was in possession of a tested 0.15 grams of methamphetamine, without a valid prescription.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 87080, issued to Lilian Grissel Flores;

2. Ordering Lilian Grissel Flores to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 9/6/13

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

LA2013508844
6/3/2013dmm
51304913.doc