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

12 In the Matter of the Accusation Against:

13 **CHRISTINA MARIE LAFLOWER**
14 **23401 Peggy Lane**
Wildomar, CA 92595

15 **Pharmacy Technician Registration**
16 **No. TCH 119491**

17 Respondent.

Case No. 4634

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18
19 **FINDINGS OF FACT**

20 1. On or about July 22, 2013, Complainant Virginia K. Herold, in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
22 Accusation No. 4634 against Christina Marie Laflower (Respondent) before the Board of
23 Pharmacy. (The Accusation is attached as Exhibit A.)

24 2. On or about January 10, 2012, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 119491 to Respondent. The Pharmacy Technician Registration
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 4634.
27 The Pharmacy Technician Registration expired on July 31, 2013. Section 4300.1 of the Code
28 provides, in pertinent part, that the expiration of a Board-issued license shall not deprive the

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

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

5 9. Pursuant to its authority under Government Code section 11520, the Board finds
6 Respondent is in default. The Board will take action without further hearing and, based on the
7 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
8 taking official notice of all the investigatory reports, exhibits and statements contained therein on
9 file at the Board's offices regarding the allegations contained in Accusation No. 4634, finds that
10 the charges and allegations in Accusation No. 4634, are separately and severally, found to be true
11 and correct by clear and convincing evidence.

12 10. Taking official notice of its own internal records, pursuant to Business and
13 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
14 and Enforcement is \$612.50 as of September 5, 2013.

15 **DETERMINATION OF ISSUES**

16 1. Based on the foregoing findings of fact, Respondent Christina Marie Laflower has
17 subjected her Pharmacy Technician Registration No. TCH 119491 to discipline.

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

19 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
20 Registration based upon the following violations alleged in the Accusation which are supported
21 by the Default Decision Investigatory Evidence Packet in this case.

22 4. Respondent has subjected her registration to discipline under sections 490 and 4301,
23 subdivisions (j) and (l) of the Code in that on or about October 16, 2012, in a criminal proceeding
24 entitled *People of the State of California v. Christina Marie Laflower*, in San Diego County
25 Superior Court, case number SCD243043, Respondent was convicted on her plea of guilty to
26 violating Health and Safety Code section 11379, subdivision (a), manufacturing a controlled
27 substance, and Penal Code section 273a, subdivision (a), child abuse.

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1 Board of jurisdiction to commence or proceed with a disciplinary proceeding against the licensee
2 or to render a decision suspending or revoking the license.

3 3. On or about August 8, 2013, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No. 4634, Statement to Respondent, Notice of Defense, Request for
5 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
6 Respondent's address of record which, pursuant to Business and Professions Code section 4100
7 and California Code of Regulations, title 16, section 1704, is required to be reported and
8 maintained with the Board. Respondent's address of record was and is:

9 23401 Peggy Lane
10 Wildomar, CA 92595

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. On or about August 26, 2013 and September 4, 2013, the aforementioned documents
15 served by First Class and Certified Mail, respectively, were returned by the U.S. Postal Service
16 marked "Return to Sender – Attempted Not Known – Unable to Forward." The address on the
17 documents was the same as the address on file with the Board. Respondent failed to maintain an
18 updated address with the Board and the Board has made attempts to serve the Respondent at the
19 address on file. Respondent has not made herself available for service and therefore, has not
20 availed herself of her right to file a notice of defense and appear at hearing.

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

22 (c) The respondent shall be entitled to a hearing on the merits if the respondent
23 files a notice of defense, and the notice shall be deemed a specific denial of all parts
24 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.

25 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
26 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4634.

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1 **ORDER**

2 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 119491, heretofore
3 issued to Respondent Christina Marie Laflower, 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 November 22, 2013.

9 It is so ORDERED ON October 23, 2013.

10 BOARD OF PHARMACY
11 DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA

13
14 By 

15 STAN C. WEISSER
16 Board President
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25 DOJ Matter ID: SD2011801852

26 Attachment:
27 Exhibit A: Accusation
28

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant
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10 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4634

13 **CHRISTINA MARIE LAFLOWER**
23401 Peggy Lane
14 Wildomar, CA 92595

ACCUSATION

15 **Pharmacy Technician Registration**
16 **No. TCH 119491**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about January 10, 2012, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 119491 to Christina Marie Laflower (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on July 31, 2013, unless renewed.

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JURISDICTION

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

4. Section 4300, subdivision (a) of the Code states "Every license issued may be suspended or revoked."

5. 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

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order

1 to fix the degree of discipline or to determine if the conviction is substantially related
2 to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 4301 of the Code states:

6 The board shall take action against any holder of a license who is guilty of
7 unprofessional conduct or whose license has been procured by fraud or
8 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
9 not limited to, any of the following:

10

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

13

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

29

30 10. Section 4022 of the Code states

31 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
32 self-use in humans or animals, and includes the following:

33 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
34 without prescription," "Rx only," or words of similar import.

35 (b) Any device that bears the statement: "Caution: federal law restricts this
36 device to sale by or on the order of a _____," "Rx only," or words of similar
37 import, the blank to be filled in with the designation of the practitioner licensed to use
38 or order use of the device.

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

3 **REGULATORY PROVISIONS**

4 11. California Code of Regulations, title 16, section 1769, states:

5

6 (b) When considering the suspension or revocation of a facility or a personal
7 License on the ground that the licensee or the registrant has been convicted of a
8 crime, the board, in evaluating the rehabilitation of such person and his present
9 eligibility for a license will consider the following criteria:

10 (1) Nature and severity of the act(s) or offense(s).

11 (2) Total criminal record.

12 (3) The time that has elapsed since commission of the act(s) or offense(s).

13 (4) Whether the licensee has complied with all terms of parole, probation,
14 restitution or any other sanctions lawfully imposed against the licensee.

15 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

24 **COSTS**

25 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

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1 **DRUG**

2 14. Tetrahydrocannabinol (THC) is a dangerous drug pursuant to section 4022 and a
3 Schedule I controlled substance as designated by Health and Safety Code section 11054,
4 subdivision (d)(20).

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(December 5, 2012 Criminal Convictions for Manufacturing a Controlled Substance**
7 **& Child Abuse on September 6, 2012)**

8 15. Respondent has subjected her registration to discipline under sections 490 and 4301,
9 subdivision (l) of the Code in that she was convicted of crimes that are substantially related to the
10 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

11 a. On or about October 16, 2012, in a criminal proceeding entitled *People of the*
12 *State of California v. Christina Marie Laflower*, in San Diego County Superior Court, case
13 number SCD243043, Respondent entered a plea of guilty to violating Health and Safety Code
14 section 11379, subdivision (a), manufacturing a controlled substance, to wit, concentrated
15 cannabis, a felony; and Penal Code section 273a, subdivision (a), child abuse, reduced to a
16 misdemeanor pursuant to Penal Code section 17b..

17 b. As a result of the plea, on or about December 5, 2012, Respondent was
18 sentenced to 90 days in jail, with credit for nine days, stayed pending successful completion of
19 four years court-supervised probation. Respondent was ordered to perform 10 days of
20 community service, complete a 52-week Child Abuse Program, pay fines and fees, and submit to
21 a Fourth Amendment waiver. The court further ordered Respondent abstain from the use and/or
22 possession of alcohol, to stay away from any place where alcohol is the main item for sale, not
23 possess any controlled substance without a valid prescription, and not use medical marijuana
24 unless approved by the court.

25 c. The facts that led to the conviction are that on or about September 6, 2012,
26 special agents from the Drug Enforcement Administration (DEA), deputies from the San Diego
27 County Sheriff's Office (SDSO), and officers from other law enforcement agencies executed a
28 search warrant on a Pauma Valley residence Respondent shared with her boyfriend and several

1 roommates. The law enforcement officers discovered and seized a marijuana cultivation
2 operation, including 110 live marijuana plants and a tetrahydrocannabinol extraction laboratory.
3 Also seized were 9.7 gross kilograms of processed marijuana, 80.5 gross grams of liquid gamma-
4 hydroxybutyric acid (GHB), nine tablets of Zanax in an unmarked container, three digital scales,
5 and a sundry of non-drug items such as \$2,484 in U.S. currency, cellular telephones, and "pay-
6 owe" notes indicative of marijuana sales. Three juvenile children, including Respondent's young
7 son, were taken into protective custody by Child Welfare Services.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Violation of California Statutes Regulating Controlled Substances)**

10 16. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
11 Code for unprofessional conduct in that on or about September 6, 2012, Respondent violated
12 Health and Safety Code section 11379, subdivision (a), for manufacturing concentrated cannabis,
13 as described in paragraph 15, above.

14 **PRAYER**

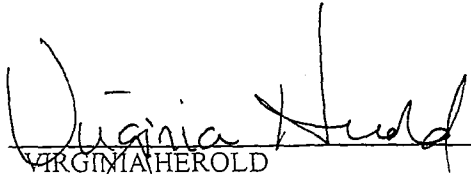
15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Pharmacy issue a decision:

17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 119491,
18 issued to Christina Marie Laflower;

19 2. Ordering Christina Marie Laflower to pay the Board of Pharmacy the reasonable
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions
21 Code section 125.3;

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

23
24
25 DATED: 7/22/13


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

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28 SD2013805104