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

In the Matter of the Accusation Against:

Case No. 4707

**JOAN ALCANTARA CATANGAY
819 E. Bonds St.
Carson, CA 90745
Pharmacy Technician Registration No. TCH
75115**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about March 3, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4707 against Joan Alcantara Catangay (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about April 12, 2007, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 75115 to Respondent. The Pharmacy Technician Registration expired on October 31, 2012, and has not been renewed. On February 3, 2013, Respondent's

1 Registration was cancelled pursuant to business and Professions Code section 4402, subdivision
2 (e).

3 3. On or about March 11, 2014, Respondent was served by Certified and First Class
4 Mail with copies of the Accusation No. 4707, Statement to Respondent, Notice of Defense,
5 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
6 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
7 Code section 4100, is required to be reported and maintained with the Board. Respondent's
8 address of record was and is:

9 819 E. Bonds St.
10 Carson, CA 90745.

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 March 28, 2014, the aforementioned documents were returned by the
15 U.S. Postal Service marked "No Forwarding Address." The address on the documents was the
16 same as the address on file with the Board. Respondent failed to maintain an updated address
17 with the Board and the Board has made attempts to serve the Respondent at the address on file.
18 Respondent has not made herself available for service and therefore, has not availed herself of her
19 right to file a notice of defense and appear at hearing.

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

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

26 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
27 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4707.

28 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.

1 grounds of unprofessional conduct, in that Respondent was found to be in illegal possession of a
2 controlled substance on November 21, 2012.

3 c. Unprofessional Conduct/ Violation of Licensing Chapter. Respondent violated
4 Business and Professions Code section 4301 subdivision (o), in that Respondent committed acts
5 of unprofessional conduct and/ or violated provisions of the licensing chapter for both possession
6 or and being under the influence of a controlled substance on November 21, 2012.

7 ORDER

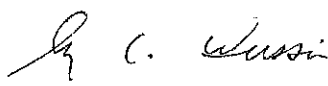
8 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 75115, heretofore
9 issued to Respondent Joan Alcantara Catangay, is revoked.

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

14 This Decision shall become effective on October 24, 2014.

15 It is so ORDERED September 24, 2014.

16 BOARD OF PHARMACY
17 DEPARTMENT OF CONSUMER AFFAIRS
18 STATE OF CALIFORNIA

19 By 
20 STAN C. WEISSER
21 Board President

22 51522802.DOC
23 DOJ Matter ID:LA2013510085

24 Attachment:
25 Exhibit A: Accusation
26
27
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Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 LESLIE A. WALDEN
Deputy Attorney General
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300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-3465
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:

Case No. 4707

12 **JOAN ALCANTARA CATANGAY**
13 819 E. Bonds St.
Carson, CA 90745

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 75115

16 Respondent.

17
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 April 2, 2007, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 75115 to Joan Alcantara Catangay (Respondent). The
24 Pharmacy Technician Registration expired on October 31, 2012, and has not been renewed.

25 **JURISDICTION**

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

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STATUTORY PROVISIONS

4. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

"This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division."

5. Section 4300 provides in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

6. Section 4300.1 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."

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

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

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

12 REGULATORY PROVISIONS

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

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

20 COST RECOVERY

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

25 10. CONTROLLED SUBSTANCE/DANGEROUS DRUG

26 "Methamphetamine," is a schedule II controlled substance as defined in Health and Safety
27 Code section 11055, subdivision (c)(14), and is categorized a dangerous drug pursuant to section
28 4022.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Use/Under the Influence of a Controlled Substance)**

3 11. Respondent is subject to disciplinary action under section 4301, subdivision (h) and
4 (j), in that Respondent by her own admission used and/or was under the influence of a controlled
5 substance, as follows:

6 a. On or about November 21, 2012, the Los Angeles County Sheriff's Department
7 contacted Respondent after observing her vehicle parked in a handicap space without a handicap
8 placard displayed. Respondent told the officer she did not have a placard and she was not
9 handicapped. While speaking to Respondent she was observed to be speaking rapidly, fidgeting,
10 and shifting her body weight from side to side. When asked if she had anything illegal on her
11 person, she stated "no." and consented to a search of her person. During the search the officer
12 recovered a plastic baggie which contained a white crystal like substance resembling
13 Methamphetamine in Respondent's pant pocket. When asked about it, Respondent stated, "I
14 forgot I had it in my pocket." She also admitted to using it earlier that day. Respondent was
15 subsequently arrested for violating Health and Safety Code section 11550, subdivision (a) [under
16 the influence of a controlled substance].

17 b. Subsequently, on or about November 30, 2012, criminal charges were filed in the
18 criminal proceeding entitled *The People of the State of California v. Joan Alcantara Catangay*
19 (Super. Ct. Los Angeles County, 2013, No. 2CP06944). On or about January 28, 2013, after
20 pleading guilty, the Court placed Respondent on 18 months Deferred Entry of Judgment for one
21 misdemeanor count of violating Health and Safety Code section 11550, subdivision (a) [under the
22 influence of a controlled substance].

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Illegal Possession of a Controlled Substance)**

25 12. Respondent is subject to disciplinary action under section 4301, subdivision (j) for
26 violating section 4060, on the grounds of unprofessional conduct, in that Respondent was found
27 to be in illegal possession of a controlled substance. Complainant refers to, and by reference

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1 incorporates, the allegations set forth above in paragraph 10, subparagraph (a), as though set forth
2 fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

5 13. Respondent is subject to disciplinary action under section 4301, (o), in that
6 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing
7 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above
8 in paragraphs 10, subparagraphs (a) and (b), inclusive, as though set forth fully.

9 **DISCIPLINARY CONSIDERATIONS**

10 14. To determine the degree of discipline, if any, to be imposed on Respondent,
11 Complainant alleges, as follows:

12 a. On or about November 17, 2010, after pleading nolo contendere, Respondent was
13 convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty
14 theft] in the criminal proceeding entitled *The People of the State of California v. Joan Catangay*
15 (Super. Ct. Los Angeles County, 2010, No. 0SY06006.) The Court ordered Respondent to pay a
16 fine and complete 120 hours of community service.

17 b. The circumstances surrounding the conviction are that on or about June 19, 2010,
18 Respondent stole, took and carried away personal property of another, to wit: H&M.

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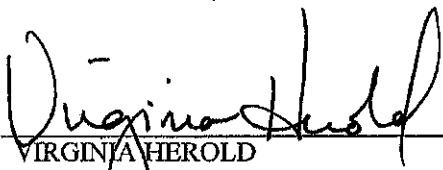
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PRAYER

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 75115, issued to Joan Alcantara Catangay;
2. Ordering Joan Alcantara Catangay 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: 3/3/14



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

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mc (10/24/13)