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8		RE THE PHARMACY
9	DEPARTMENT OF C	CONSUMER AFFAIRS CALIFORNIA
10		
11	In the Matter of the Accusation Against:	Case No. 4710
12	BHAVANA S. MAHABALI	
13	143 Fagundes Street Hayward, CA 94544	DEFAULT DECISION AND ORDER
14	Pharmacy Technician Registration No. TCH 25967	DEFACET DECISION AND ONDER
15		[Gov. Code, § 11520]
16	Respondent.	
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19	FINDING	S OF FACT
20	1. On or about February 19, 2014, Com	plainant Virginia Herold, in her official capacity
21	as the Executive Officer of the Board of Pharmac	cy, Department of Consumer Affairs, filed
22	Accusation No. 4710 against Bhavana S. Mahaba	ali (Respondent) before the Board of Pharmacy.
23	(Accusation attached as Exhibit A.)	
24	2. On or about June 5, 1998, the Board	of Pharmacy (Board) issued Pharmacy
25	Technician Registration No. TCH 25967 to Resp	ondent. The Pharmacy Technician Registration
26	expired on May 31, 2013, and has not been renew	wed.
27	3. On or about March 3, 2014, Respond	lent was served by Certified and First Class Mail
28	copies of the Accusation No. 4710, Statement to	Respondent, Notice of Defense, Request for
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		DEFAULT DECISION AND ORDER

1	Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
2	Respondent's address of record which, pursuant to Business and Professions Code section 4100,
3	is required to be reported and maintained with the Board. Respondent's address of record was
4	and is:
5	143 Fagundes Street Hayward, CA 94544.
6	4. Service of the Accusation was effective as a matter of law under the provisions of
7	Government Code section 11505, subdivision (c) and/or Business & Professions Code section
8	124.
9	5. Government Code section 11506 states, in pertinent part:
10	(c) The respondent shall be entitled to a hearing on the merits if the respondent
11	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
12	constitute a waiver of respondent's right to a hearing, but the agency in its discretion — may nevertheless grant a hearing.
13	6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
14 15	the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4710.
15	7. California Government Code section 11520 states, in pertinent part:
17	(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
18	or upon other evidence and affidavits may be used as evidence without any notice to respondent.
19	
20	8. Pursuant to its authority under Government Code section 11520, the Board finds
21	Respondent is in default. The Board will take action without further hearing and, based on the
22	relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
23	taking official notice of all the investigatory reports, exhibits and statements contained therein on
23	file at the Board's offices regarding the allegations contained in Accusation No. 4710, finds that
25	the charges and allegations in Accusation No. 4710 are separately and severally found to be true
	and correct by clear and convincing evidence.
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	DEFAULT DECISION AND ORDER

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1	9.	Taking official notice of its own internal records, pursuant to Business and
2	Profession	s Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3	and Enforc	cement is \$1,370 as of March 26, 2014.
4		DETERMINATION OF ISSUES
5	1.	Based on the foregoing findings of fact, Respondent Bhavana S. Mahabali has
6	subjected l	her Pharmacy Technician Registration No. TCH 25967 to discipline.
7	2.	The agency has jurisdiction to adjudicate this case by default.
8	3.	The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
9	Registratio	on based upon the following violation alleged in the Accusation, which is supported by
10	the evidence	ce contained in the Default Decision Evidence Packet in this case:
11	a.	Business and Professions Code sections 4300 and 4301, subdivision (h) (use of a
12	controlled	substance and dangerous drug).
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		DEFAULT DECISION AND ORDER

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1	ORDER
2	IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 25967, heretofore
3	issued to Respondent Bhavana S. Mahabali, 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 May 26, 2014.
9	It is so ORDERED April 24, 2014.
10	BOARD OF PHARMACY
11	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
12	
13	By <u>C. WEISSEP</u>
14	STAN C. WEISSER Board President
15	
16	MAHABALI.DEFAULT DECISION.DOCX DOJ Matter ID:SF2013405043
17	Attachment: Exhibit A: Accusation
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	4 DEFAULT DECISION AND ORDER

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Exhibit A

Accusation

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- 1	Kamala D. Harris	
2	Attorney General of California FRANK H. PACOE	
	Supervising Deputy Attorney General	
3	NICHOLAS TSUKAMAKI Deputy Attorney General	
4	State Bar No. 253959 455 Golden Gate Avenue, Suite 11000	
5	San Francisco, CA 94102-7004 Telephone: (415) 703-1188	
6	Facsimile: (415) 703-5480 E-mail: Nicholas.Tsukamaki@doj.ca.gov	
7	Attorneys for Complainant	
8		RE THE PHARMACY
9	DEPARTMENT OF C	ONSUMER AFFAIRS
10	STATE OF C	CALIFORNIA
11	In the Matter of the Accusation Against:	Case No. 4710
12	BHAVANA S. MAHABALI	
13	143 Fagundes Street Hayward, CA 94544	ACCUSATION
14	Pharmacy Technician Registration No. TCH 25967	
15	Respondent.	1
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18	Complainant alleges:	
19	PAR	TIES
20	1. Virginia Herold (Complainant) bring	s this Accusation solely in her official capacity
21	as the Executive Officer of the Board of Pharma	cy (Board), Department of Consumer Affairs.
22	2. On or about June 5, 1998, the Board	issued Pharmacy Technician Registration
23	Number TCH 25967 to Bhavana S. Mahabali (R	espondent). The Pharmacy Technician
24	Registration expired on May 31, 2013, and has n	ot been renewed.
25	JURISE	ICTION
26	3. This Accusation is brought before th	e Board under the authority of the following
27	laws. All section references are to the Business	and Professions Code (Code) unless otherwise
28	indicated.	· · · · ·
		1 ACCUSATION

1	4. Section 4300 of the Code states:
2	"(a) Every license issued may be suspended or revoked.
3	"(b) The board shall discipline the holder of any license issued by the board, whose default
4	has been entered or whose case has been heard by the board and found guilty, by any of the
5	following methods:
6	"(1) Suspending judgment.
7	"(2) Placing him or her upon probation.
8	"(3) Suspending his or her right to practice for a period not exceeding one year.
9	"(4) Revoking his or her license.
10	"(5) Taking any other action in relation to disciplining him or her as the board in its
11	discretion may deem proper.
12	•••
13	"(e) The proceedings under this article shall be conducted in accordance with Chapter 5
14	(commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
15	shall have all the powers granted therein. The action shall be final, except that the propriety of
16	the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
17	Civil Procedure."
18	5. Section 4300.1 of the Code states:
19	"The expiration, cancellation, forfeiture, or suspension of a board-issued license by
20	operation of law or by order or decision of the board or a court of law, the placement of a license
21	on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
22	of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
23	proceeding against, the licensee or to render a decision suspending or revoking the license."
24	STATUTORY PROVISIONS
25	6. Section 4301 of the Code provides in relevant part:
26,	"The board shall take action against any holder of a license who is guilty of unprofessional
27	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
28	Unprofessional conduct shall include, but is not limited to, any of the following:
	2 ACCUSATION

"(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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8 7. Methamphetamine is a Schedule II controlled substance as designated by Health and
9 Safety Code section 11055, subdivision (d)(2) and a dangerous drug as designated by Business
10 and Professions Code section 4022. It is a stimulant drug.

COSTS

8. Section 125.3 of the Code 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.

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CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Use of a Controlled Substance and Dangerous Drug)

9. Respondent is subject to disciplinary action under sections 4300 and 4301,
subdivision (h) of the Code in that she administered a controlled substance to herself and used a
dangerous drug in a dangerous manner. The circumstances of Respondent's conduct are as
follows:

a. On or about November 23, 2012, the vehicle in which Respondent was traveling was
pulled over in Fremont, California. Respondent was subsequently arrested. During a search of
Respondent's purse incident to her arrest, a police officer located in the purse a small plastic
baggie containing a white crystal-like residue. The officer, based on his training and experience,
suspected the substance in the baggie to be methamphetamine.

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ACCUSATION

1	b. Shortly after Respondent's arrest, a police officer performed a drug	gevaluation on	
2	Respondent. Based on the results of the drug evaluation, the officer determined	d that Respondent	
3	was under the influence of a stimulant.		
4	c. Shortly after her arrest, Respondent told a police officer that she ha	c. Shortly after her arrest, Respondent told a police officer that she had recently used	
5	methamphetamine.		
6	d. Shortly after her arrest, Respondent provided a urine sample. The urine sample was		
7	tested, and the results of the test indicate that Respondent tested positive for methamphetamine.		
8	PRAYER		
9	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,		
10	and that following the hearing, the Board of Pharmacy issue a decision:		
11	1. Revoking or suspending Pharmacy Technician Registration Number TCH 25967		
12	issued to Bhavana S. Mahabali;		
13	2. Ordering Bhavana S. Mahabali to pay the Board of Pharmacy the r	easonable costs of	
14	the investigation and enforcement of this case pursuant to Business and Professions Code section		
15	125.3;		
16	3. Taking such other and further action as deemed necessary and proper.		
17		,	
18	DATED: 2/19/14 Unginoffee	do	
19 20	VIRGINIA HEROLD Executive Officer Board of Pharmacy		
21	Department of Consumer Affairs State of California		
22	Complainant		
23	SF2013405043		
24	Mahabali.Accusation.docx		
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