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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:

Case No. 5124

13 **CHRISTINE MARIE SURPITSKI**
14 **419 C Avenue**
15 **Coronado, CA 92118**

DEFAULT DECISION AND ORDER

16 **Pharmacy Technician Registration**
17 **No. TCH 46588**

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about June 9, 2014, Complainant Virginia Herold, in her official capacity as the
21 Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation
22 No. 5124 against Christine Marie Surpitski (Respondent) before the Board of Pharmacy.
23 (Accusation attached as Exhibit A.)

24 2. On or about December 12, 2002, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 46588 to Respondent. The Pharmacy Technician Registration
26 expired on January 28, 2011, and has not been renewed.

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1 3. On or about July 3, 2014, Respondent was served by Certified Mail copies of the
2 Accusation No. 5124, Statement to Respondent, Notice of Defense, Request for Discovery, and
3 Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's
4 address of record which, pursuant to Business and Professions Code section 4100, is required to
5 be reported and maintained with the Board. Respondent's address of record was and is:

6 419 C Avenue
7 Coronado, CA 92118.

8 4. Service of the Accusation was effective as a matter of law under the provisions of
9 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
10 124.

11 5. On or about July 16, 2014, the aforementioned documents mailed by First Class Mail
12 and Certified Mail were returned by the U.S. Postal Service marked "Addressee Not Known."

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

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 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.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5124.

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

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
 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. 5124, finds that

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1 the charges and allegations in Accusation No. 5124, are separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$757.50 as of August 6, 2014.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Christine Marie Surpitski has
8 subjected her Pharmacy Technician Registration No. TCH 46588 to discipline.

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

10 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
11 Registration based upon the following violations alleged in the Accusation which are supported
12 by the evidence contained in the Default Decision Evidence Packet in this case:

13 a. Violation of Business and Professions Code section 4301, subdivisions (j) and (o) for
14 unprofessional conduct, in that on or about August 26, 2013, Respondent possessed
15 methamphetamine, which resulted in a criminal proceeding on or about August 29, 2013, entitled
16 *People of the State of California v. Christine Surpitski*, in the Superior Court of California,
17 County of San Diego, case number S266772, wherein Respondent pled guilty to violating Health
18 and Safety Code section 11377(a) (possession of a controlled substance, to wit:
19 methamphetamine), a misdemeanor. As a result of the guilty plea, the court deferred entry of
20 judgment for 18 months and Respondent was placed on drug diversion pursuant to Penal Code
21 section 1000. A review hearing is scheduled for February 20, 2015.

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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.

It is so ORDERED September 9, 2014.

By 
STAN C. WEISSER
Board President

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5124

12 **CHRISTINE MARIE SURPITSKI**
13 **419 C Avenue**
14 **Coronado, CA 92118**

A C C U S A T I O N

15 **Pharmacy Technician Registration**
No. TCH 46588

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about December 12, 2002, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 46588 to Christine Marie Surpitski (Respondent). The Pharmacy
25 Technician Registration expired on January 28, 2011, and has not been 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 unless otherwise indicated.

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

5. 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.

STATUTORY PROVISIONS

6. Section 492 of the Code 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 (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.

7. Section 4301 of the Code 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.

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

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7 8. Section 4060 of the Code states, in pertinent part, that no person shall possess any
8 controlled substance, except that furnished to a person upon the prescription of a physician,
9 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

10 9. Health and Safety Code section 11377(a) states, in pertinent part, that every person
11 who possesses any controlled substance which is specified in subdivision (d), (e), or (f) of Section
12 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to
13 practice in this state, shall be punished by imprisonment in a county jail for a period of not more
14 than one year

15 REGULATORY PROVISIONS

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

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

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

23 (2) Total criminal record.

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

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

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

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

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3 For the purpose of denial, suspension, or revocation of a personal or facility
4 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
5 Professions Code, a crime or act shall be considered substantially related to the
6 evidences present or potential unfitness of a licensee or registrant if to a substantial degree it
7 functions authorized by his license or registration in a manner consistent with the
8 public health, safety, or welfare.

9 **COST RECOVERY**

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

16 **DRUGS**

17 13. Methamphetamine is a Schedule II controlled substance as designated by Health and
18 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions
19 Code section 4022.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct - Possession of a Controlled Substances on August 26, 2013)**

22 14. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
23 (o) of the Code on the grounds of unprofessional conduct, in that she was in possession of the
24 controlled substance and dangerous drug, methamphetamine, without a prescription in violation of
25 section 4060 of the Code and Health and Safety Code section 11377. The circumstances are as
26 follows:

27 a. On or about August 26, 2013, Chula Vista Police Officers, while on routine patrol,
28 observed a vehicle in a vacant field and the officers made contact with the occupants of the
vehicle. The passenger (Respondent) was observed to bend down and start feverishly digging in
her purse. The Officers observed a plastic baggie sticking out of Respondent's purse. The plastic

1 baggie resembled the packaging commonly used for carrying and storing narcotics. When
2 questioned, Respondent admitted that she had methamphetamine and a pipe for smoking the
3 methamphetamine. Respondent was arrested for possession of methamphetamine and narcotic
4 paraphernalia. Officers tested the crystalline substance and it tested positive for methamphetamine
5 and weighed .57 grams.

6 b. As a result of the arrest, on August 29, 2013, in a criminal proceeding entitled *People*
7 *of the State of California v. Christine Surpitski*, in the Superior Court of California, County of San
8 Diego, case number S266772, Respondent pled guilty to violating Health and Safety Code section
9 11377(a) (possession of a controlled substance), to wit: methamphetamine, a misdemeanor.

10 c. As a result of the guilty plea, the court deferred entry of judgment for 18 months and
11 Respondent was placed on drug diversion pursuant to Penal Code section 1000, ordered to pay
12 \$200 in fines and fees, and ordered to enroll in and complete the San Diego Rescue Mission
13 Program. A review hearing is scheduled for February 20, 2015.

14 **PRAYER**

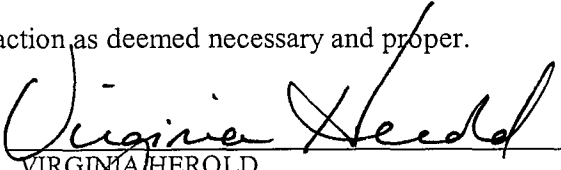
15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Pharmacy issue a decision:

17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 46588
18 issued to Christine Marie Surpitski;

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

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

23 DATED: 6/9/14

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

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