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

In the Matter of the Accusation Against:

ANGELA CONTESSA HERNANDEZ
11632 Coldbrook Ave, 5
Downey, CA 90241
Pharmacy Technician Registration No. TCH
61795

Respondent.

Case No. 5334

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 19, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5334 against Angela Contessa Hernandez (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about April 6, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 61795 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5334 and will expire on May 31, 2016, unless renewed.

1 3. On March 9, 2016, copies of Accusation No. 5018, Statement to Respondent, Notice
2 of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
3 11507.6, and 11507.7) were sent to Respondent's address of record by Certified and First Class
4 Mail. Pursuant to Business and Professions Code section 136, Respondent is required to report
5 and maintain his address of record with the Board. Respondent's address of record: 11632
6 Coldbrook Ave, 5, Downey, CA 90241.

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

10 5. Government Code section 11506(c) states, in pertinent part:

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

16 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5334.

18 7. California Government Code section 11520(a) states, in pertinent part:

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

23 8. 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. 5334, finds that
28 the charges and allegations in Accusation No. 5334, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 9. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement are \$4,108.75 as of March 31, 2016.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent Angela Contessa Hernandez has
6 subjected her Pharmacy Technician Registration No. TCH 61795 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 Registration based upon the following violations alleged in the Accusation which are supported
10 by the evidence contained in the Default Decision Evidence Packet in this case:

11 a. Respondent is subject to disciplinary action under section 4301, subdivision (h)
12 of the Code, in that on or about January 2014 to July 30, 2014, Respondent used controlled
13 substances to the extent or in a manner, dangerous or injurious to herself, another person or the
14 public;

15 b. Respondent is subject to disciplinary action under section 4301, subdivisions
16 (f), (j), and (o), in that Respondent committed acts of unprofessional conduct and/ or violated
17 provisions of the licensing chapter.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 61795, heretofore issued to Respondent Angela Contessa Hernandez, 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 at 5:00 p.m. on June 9, 2016.

It is so ORDERED on May 10, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
Amy Gutierrez, Pharm.D.
Board President

DEFAULT.DOCX
DOJ Matter ID:LA2014512924

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(ANGELA CONTESSA HERNANDEZ)

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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. 5334

12 **ANGELA CONTESSA HERNANDEZ**
11632 Coldbrook Ave, 5
13 Downey, CA 90241

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 61795

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 (Board), Department of Consumer Affairs.

22 2. On or about April 6, 2005, the Board issued Pharmacy Technician Registration No.
23 TCH 61795 to Angela Contessa Hernandez (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on May 31, 2016, unless renewed.

26 **JURISDICTION**

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

STATUTORY PROVISIONS

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

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."

6. 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:

....

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

....

"(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.

....

"(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.

....

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

5 **REGULATORY PROVISIONS**

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

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

13 **COST RECOVERY**

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

20 **CONTROLLED SUBSTANCE / DANGEROUS DRUGS**

21 9. "Methamphetamine," is a Schedule II controlled substance as designated by Health
22 and Safety Code section 11055, subdivision (d)(2) and is categorized as a dangerous drug
23 pursuant to section 4022.

24 10. "Marijuana," is a Schedule I controlled substance as designated by Health and Safety
25 Code section 11054, subdivision (d).

26 **FACTUAL BACKGROUND- CVS PHARMACY**

27 11. CVS Pharmacy, located at 8008 Firestone Boulevard, Downey, California, hired
28 Respondent as a pharmacy technician.

1 12. On July 13, 2014, Respondent sent the lead pharmacy technician at the pharmacy a
2 text message 15 minutes before Respondent's shift was to begin asking for someone to cover her
3 shift. During their text messages, Respondent told the lead pharmacy technician, "I'm a mess"
4 and that she was addicted to "meth." The next morning the lead pharmacy technician told the
5 pharmacist in charge about the text messages.

6 13. On July 14, 2014, three (3) personnel from CVS questioned Respondent. Respondent
7 admitted to them that she was addicted to methamphetamines.

8 14. On October 1, 2014, a Board Inspector met with Respondent. Respondent told the
9 inspector that she had started to use "meth" on or about January 2014. She would use it daily,
10 and by March 2014, she was addicted to the drug. She needed to use it during her lunch break
11 from work to avoid going through withdrawal.

12 **FACTUAL BACKGROUND- JULY 30, 2014 INCIDENT**

13 15. On or about July 30, 2014, the Downey Police Department conducted an investigation
14 at Respondent's residence. Respondent advised officers that she had been using methamphetamine
15 regularly since 2010. She stated that she suffered from depression and methamphetamine helped
16 relax her. She was recently admitted to the hospital for evaluation after ingesting pills, but
17 checked herself out. Respondent also admitted to smoking methamphetamine 15 minutes prior to
18 the officer's arrival, and that she had been up all night smoking methamphetamine. Respondent
19 indicated she heard voices in her head and that they were probably due to the use of
20 methamphetamine. In addition, Respondent stated she smoked two marijuana cigarettes to
21 minimize the effects of methamphetamine. When the officers asked her where her
22 methamphetamine was, Respondent stated she smoked it all.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Dangerous Use of Controlled Substance)**

25 16. Respondent is subject to disciplinary action under section 4301, subdivision (h) of
26 the Code, in that on or about January 2014 to July 30, 2014, Respondent used controlled
27 substance to the extent or in a manner, dangerous or injurious to herself, another person or the
28

1 public. Complainant refers to, and by this reference incorporates, the allegations set forth above
2 in paragraphs 11 through 15, as though set forth fully.

3 SECOND CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct/ Violation of Licensing Chapter)

5 17. Respondent is subject to disciplinary action under section 4301, subdivisions (f), (j),
6 and (o), in that Respondent committed acts of unprofessional conduct and/ or violated provisions
7 of the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations
8 set forth above in paragraphs 11 through 15, as though set forth fully.

9 PRAYER

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

- 12 1. Revoking or suspending Pharmacy Technician Registration No. TCH 61795, issued
13 to Angela Contessa Hernandez;
- 14 2. Ordering Angela Contessa Hernandez to pay the Board the reasonable costs of the
15 investigation and enforcement of this case, pursuant to section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 2/19/16

Virginia Herold
19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

25
26 LA2014512924
27 Ky-1.13.16