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

In the Matter of the Accusation Against:
RICHARD PEDROZA
1726 East 2nd Street, #21
Long Beach, CA 90802
**Pharmacy Technician Registration No. TCH
29624**

Respondent.

Case No. 5717

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 2, 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. 5717 against Richard Pedroza (“Respondent”) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about June 11, 1999, the Board of Pharmacy (“Board”) issued Pharmacy Technician Registration No. TCH 29624 to Respondent. The Pharmacy Technician Registration expired on June 30, 2015, and has not been renewed.

3. On or about May 17, 2016, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5717, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
2 is required to be reported and maintained with the Board. Respondent's address of record was
3 and is: 1726 East 2nd Street, #21, Long Beach, CA 90802.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 5. On or about June 2, 2016, the aforementioned documents were returned by the U.S.
8 Postal Service marked "Return to Sender," "Attempted - Not Known," and "Unable to Forward."
9 The address on the documents was the same as the address on file with the Board. Respondent
10 failed to maintain an updated address with the Board and the Board has made attempts to serve
11 the Respondent at the address on file. Respondent has not made himself available for service and
12 therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

13 6. Government Code section 11506(c) 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
16 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
17 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
18 discretion may nevertheless grant a hearing.

19 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
20 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
21 5717.

22 8. California Government Code section 11520(a) states, in pertinent part:

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

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 5717, finds that

1 the charges and allegations in Accusation No. 5717, 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 \$2,587.50 as of June 15, 2016.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Richard Pedroza has subjected
8 his Pharmacy Technician Registration No. TCH 29624 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. Respondent is subject to disciplinary action under Code sections 490, and 4301,
14 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that
15 on or about August 27, 2015, he was convicted of violating Health and Safety Code section
16 11377 [possessing a controlled substance, to wit, methamphetamine], a crime substantially related
17 to the qualifications, functions, and duties of a pharmacy technician.

18 b. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
19 on the grounds of unprofessional conduct, for violating Code section 4060, and Health and Safety
20 Code section 11375, subdivision (b)(1), in that on or about May 28, 2015, Respondent unlawfully
21 possessed methamphetamine, a controlled substance.

22 c. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
23 in that Respondent committed acts of unprofessional conduct and violated provisions of the
24 licensing chapter.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 29624, heretofore issued to Respondent Richard Pedroza, 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 September 9, 2016.

It is so ORDERED on August 10, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

52135462.DOC
DOJ Matter ID:LA2016500202

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(RICHARD PEDROZA)

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2 ARMANDO ZAMBRANO
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300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 5717

12 **RICHARD PEDROZA**
1726 East 2nd Street, #21
13 Long Beach, CA 90802

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
15 **29624**

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 June 11, 1999, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 29624 to Richard Pedroza ("Respondent"). The Pharmacy Technician
24 Registration expired on June 30, 2015, and has not been renewed.

25 **JURISDICTION**

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

1 4. Section 4011 of the Code provides that "[t]he board shall administer and enforce this
2 chapter [Pharmacy Law, (Business and Profession Code, Sec 4000 et seq.)] and the Uniform
3 Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and
4 Safety Code)."

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

7 6. Section 4300.1 states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement
10 of a license on a retired status, or the voluntary surrender of a license by a licensee
11 shall not deprive the board of jurisdiction to commence or proceed with any
12 investigation of, or action or disciplinary proceeding against, the licensee or to render a
13 decision suspending or revoking the license.

14 STATUTORY PROVISIONS

15 7. Section 490 of the Code states:

16 (a) In addition to any other action that a board is permitted to take against a licensee, a
17 board may suspend or revoke a license on the ground that the licensee has been
18 convicted of a crime, if the crime is substantially related to the qualifications,
19 functions, or duties of the business or profession for which the license was issued.

20 (b) Notwithstanding any other provision of law, a board may exercise any authority to
21 discipline a licensee for conviction of a crime that is independent of the authority
22 granted under subdivision (a) only if the crime is substantially related to the
23 qualifications, functions, or duties of the business or profession for which the licensee's
24 license was issued.

25 (c) A conviction within the meaning of this section means a plea or verdict of guilty or
26 a conviction following a plea of nolo contendere. Any action that a board is permitted
27 to take following the establishment of a conviction may be taken when the time for
28 appeal has elapsed, or the judgment of 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 the provisions of Section 1203.4 of the Penal
Code....

8. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person
upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order
issued by a certified nurse midwife pursuant to Section 2746.51, a nurse practitioner
pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or
naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either

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subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer....

9. 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.

...

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of 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.

...

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

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1770, states:
3 For the purpose of denial, suspension, or revocation of a personal or facility license
4 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 qualifications, functions or duties of a licensee or registrant if to a substantial degree it
7 evidences present or potential unfitness of a licensee or registrant to perform the
8 functions authorized by his license or registration in a manner consistent with the
9 public health, safety, or welfare.

7 **COST RECOVERY**

8 11. Section 125.3 of the Code states, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 **CONTROLLED SUBSTANCE**

13 12. Section 4021 of the Code states, in pertinent part:

14 "Controlled substances: means any substance listed in Chapter 2 (commencing with Section
15 11053) of Division 10 of the Health and Safety Code."

16 13. Methamphetamine is a Schedule II controlled substance pursuant to Health and
17 Safety Code section 11055, subdivision (d)(2).

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Conviction of Substantially Related Crime)**

20 14. Respondent is subject to disciplinary action under Code sections 490, and 4301,
21 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
22 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
23 related to the qualifications, functions, and duties of a pharmacy technician, as follows:

24 a. On or about August 27, 2015, Respondent was convicted of one misdemeanor count
25 of violating Health and Safety Code sections 11377 [possessing a controlled substance, to wit,
26 methamphetamine], in the criminal proceeding entitled *The People of the State of California v.*
27 *Richard Pedroza* (Super. Ct. Los Angeles County, 2015, No. 5DY06255). The Court placed

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1 Respondent on one year probation, ordered him to complete 45 days of Narcotic Anonymous
2 Meetings, and ordered him to pay fines.

3 b. The circumstances surrounding the conviction are that on or about June 16, 2015, at
4 approximately 1:31 a.m., Respondent and a friend, were sitting in a parked car in an alley. A
5 Downey police officer observed Respondent in the front passenger seat. During the police
6 contact, the officer observed an open beer can. Respondent denied being in possession of
7 unlawful substances. Upon a search of Respondent, a small "Altoids" mints tin was found in the
8 left front pocket of his pants which had a small clear plastic baggie containing a white crystalline
9 substance. Respondent admitted that the white crystalline substance was methamphetamine, was
10 for his personal use, and that he has been using the controlled substance off and on for
11 approximately one year.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unlawful Possession of Controlled Substance)**

14 15. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
15 on the grounds of unprofessional conduct, for violating Code section 4060, and Health and Safety
16 Code section 11375, subdivision (b)(1), in that on or about May 28, 2015, Respondent unlawfully
17 possessed methamphetamine, a controlled substance. Complainant refers to, and by this
18 reference incorporates, the allegations set forth above in paragraph 14, and all subparagraphs,
19 inclusive, as though set forth fully.

20 **THIRD CAUSE FOR DISCIPLINE**

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

22 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
23 in that Respondent committed acts of unprofessional conduct and violated provisions of the
24 licensing chapter. Complainant refers to, and by this reference incorporates, the allegations set
25 forth above in paragraph 14, and all subparagraphs, inclusive, as though set forth fully.

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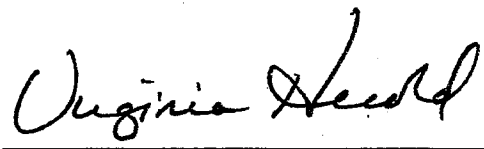
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 29624, issued to Richard Pedroza ;
2. Ordering Richard Pedroza to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/2/16



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

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