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9
10 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

Case No. 3265

13 MARGARIE R. SAUCEDO
7712 Craig Ave
14 Buena Park, CA 90621

A C C U S A T I O N

15 Pharmacy Technician
16 Registration No. TCH 40762

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about December 12, 2001, the Board of Pharmacy issued Pharmacy
24 Technician Registration Number TCH 40762 to Margarie R. Saucedo (Respondent). The
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
26 brought herein and will expire on December 31, 2009, unless renewed.

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1 JURISDICTION

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

5 4. Section 4300 of the Code states:

- 6 (a) Every license issued may be suspended or revoked.
7 (b) The board shall discipline the holder of any license issued by the board, whose
8 default has been entered or whose case has been heard by the board and found
9 guilty, by any of the following methods:

- 10 (1) Suspending judgment.
11 (2) Placing him or her upon probation.
12 (3) Suspending his or her right to practice for a period not exceeding
13 one year.
14 (4) Revoking his or her license.
15 (5) Taking any other action in relation to disciplining him or her as the
16 board in its discretion may deem proper.

17

18 5. Section 118, subdivision (b), of the Code provides that the suspension,
19 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
20 proceed with a disciplinary action during the period within which the license may be renewed,
21 restored, reissued or reinstated.

22 STATUTORY AND REGULATORY PROVISIONS

23 6. Section 4301 of the Code defines unprofessional conduct to include any of
24 the following:

25 ...

26 ((h) The administering to oneself, of any controlled substance, or the use of any
27 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
28 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.

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1 7. Section 4060 provides that "No person shall possess any controlled
2 substance, except that furnished to a person upon the prescription of a physician, dentist,
3 podiatrist, or veterinarian...."

4 8. Section 482 states:

5 Each board under the provisions of this code shall develop criteria to evaluate the
6 rehabilitation of a person when:

7 (a) Considering the denial of a license by the board under Section 480; or

8 (b) Considering suspension or revocation of a license under Section 490.
9 Each board shall take into account all competent evidence of rehabilitation
 furnished by the applicant or licensee.

10 9. Title 16, of the Code of Regulations, section 1769 sets forth the following
11 factors to consider with regard to evidence of rehabilitation:

12 ...

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

- 16 (1) Nature and severity of the act(s) or offense(s).
- 17 (2) Total criminal record.
- 18 (3) The time that has elapsed since commission of the act(s) or
 offense(s).
- 19 (4) Whether the licensee has complied with all terms of parole,
 probation, restitution or any other sanctions lawfully imposed
 against the licensee.
- 20 (5) Evidence, if any, of rehabilitation submitted by the licensee.

21 10. Section 492 also provides:

22 Notwithstanding any other provision of law, successful completion of any
23 diversion program under the Penal Code, or successful completion of an alcohol
24 and drug problem assessment program under Article 5 (commencing with Section
25 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.

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

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1 COST RECOVERY

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

6 DRUGS

7 12. **Methamphetamine** is a Schedule II controlled substance as designated by
8 Health and Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and
9 Professions Code section 4022.

10 13. **Cocaine** is a Schedule II controlled substance as designated by Health and
11 Safety Code section 11055(b)(6), and is a dangerous drug pursuant to Business & Professions
12 Code section 4022.

13 FACTS

14 14. On or about October 15, 2006, Respondent was observed by an officer of
15 the San Bernardino County Sheriff's Department operating a motor vehicle across a double-
16 yellow line at about 8:41 p.m. in Rancho Cucamonga, California. The officer made a traffic stop
17 and smelled the odor of alcohol on Respondent's breath. He noted Respondent's speech was
18 slurred and her eyes were red, watery and bloodshot. Respondent admitted to consuming two
19 beers about an hour before. Respondent consented to a field sobriety test from which the officer
20 determined Respondent was under the influence of alcohol.

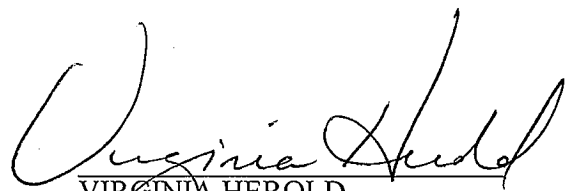
21 15. In the process of arresting Respondent, the officer asked Respondent to
22 empty her pockets. Respondent placed her hand into her left pocket and turned it inside out. As
23 Respondent emptied her left pocket, the officer saw a small amount of a crystalline substance
24 blow into the wind. As she removed her hand from her pocket, Respondent pulled out a knotted
25 up clear bag, which the officer recognized to be commonly used to hold methamphetamine.
26 When asked about the bag, Respondent hid it behind her back and explained that it was "lint."
27 The officer obtained a small sample of the residue left in Respondent's left pocket and tested it.
28 The sample tested positive for methamphetamine.

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2. Ordering Margarie R. Saucedo 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;

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

DATED: 4/10/09



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

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