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

12 In the Matter of the Accusation Against:

Case No. 3309

13 GENOVEVA PEREDA  
27644 Genevieve Drive  
14 Sun City, CA 92586

**A C C U S A T I O N**

15 Pharmacy Technician Registration  
16 No. TCH 30005

Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about July 20, 1999, the Board of Pharmacy issued Pharmacy  
23 Technician Registration No. TCH 30005 to Genoveva Pereda (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on June 30, 2011, 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, subdivision (a) of the Code states, in pertinent part, "Every  
6 license issued may be suspended or revoked."

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

11 **STATUTORY PROVISIONS**

12 6. Section 492 of the Code states:

13 Notwithstanding any other provision of law, successful completion of any  
14 diversion program under the Penal Code, or successful completion of an alcohol  
15 and drug problem assessment program under Article 5 (commencing with section  
16 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit  
17 any agency established under Division 2 ([Healing Arts] commencing with  
18 Section 500) of this code, or any initiative act referred to in that division, from  
19 taking disciplinary action against a licensee or from denying a license for  
20 professional misconduct, notwithstanding that evidence of that misconduct may  
21 be recorded in a record pertaining to an arrest.

18 . . . .

19 7. Section 4301 of the Code states:

20 The board shall take action against any holder of a license who is guilty of  
21 unprofessional conduct or whose license has been procured by fraud or  
22 misrepresentation or issued by mistake. Unprofessional conduct shall include, but  
23 is not limited to, any of the following:

23 . . . .

24 (h) The administering to oneself, of any controlled substance, or the use of  
25 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
26 dangerous or injurious to oneself, to a person holding a license under this chapter,  
27 or to any other person or to the public, or to the extent that the use impairs the  
28 ability of the person to conduct with safety to the public the practice authorized by  
the license.

27 . . . .

1 (j) The violation of any of the statutes of this state, or any other state, or of  
2 the United States regulating controlled substances and dangerous drugs.

3  
4 8. Section 4022 of the Code states

5 "Dangerous drug" or "dangerous device" means any drug or device unsafe  
6 for self-use in humans or animals, and includes the following:

7 (a) Any drug that bears the legend: "Caution: federal law prohibits  
8 dispensing without prescription," "Rx only," or words of similar import.

9 (b) Any device that bears the statement: "Caution: federal law restricts this  
10 device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar  
11 import, the blank to be filled in with the designation of the practitioner licensed to  
12 use or order use of the device.

13 (c) Any other drug or device that by federal or state law can be lawfully  
14 dispensed only on prescription or furnished pursuant to Section 4006.

15 9. Section 4060 of the Code states, in pertinent part:

16 No person shall possess any controlled substance, except that furnished to  
17 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
18 veterinarian, or naturopathic doctor. . . .

19 **REGULATORY PROVISIONS**

20 10. California Code of Regulations, title 16, section 1770, states:

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

28 **COST RECOVERY**

11. Section 125.3 of the Code provides, 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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1 **DRUG**

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

5 **FACTS**

6 13. On or about the evening of November 14, 2006, a Riverside County  
7 Sheriff's Deputy was at a Sun City, California, gas station investigating a domestic disturbance.  
8 While talking to a female victim in a vehicle, Respondent pulled up to a gas pump. The female  
9 victim indicated to the deputy that Respondent was her sister-in-law. The deputy contacted  
10 Respondent and noted that she had a rancid odor on her breath, her pupils were dilated, and her  
11 pulse rate was 130 BPM. Based on his observations, the deputy concluded Respondent was  
12 under the influence of a central nervous system stimulant. Respondent consented to a search of  
13 her vehicle where the deputy located in Respondent's purse four small baggies containing a total  
14 of 1.76 grams of methamphetamine. The deputy also located a clear glass pipe containing white  
15 residue in the purse. Respondent admitted to the officer that the methamphetamine was for her  
16 personal use; she had been using meth for approximately five years and she had last used earlier  
17 in the evening by smoking it in the glass pipe. Respondent further admitted that she obtains  
18 methamphetamine from her brother. Respondent was arrested and gave a blood sample that  
19 subsequently tested positive for methamphetamine.

20 14. In a court proceeding on or about March 5, 2007, entitled *People of the*  
21 *State of California v. Genoveva Pereda*, Riverside County Superior Court Case No. SWF019470,  
22 Respondent pled guilty to a violation of Health and Safety Code section 11377, subdivision (a),  
23 possession of a controlled substance, reduced to a misdemeanor pursuant to Penal Code section  
24 17, subdivision (b)(4). Entry of judgment was deferred and Respondent was ordered to enroll in  
25 a drug program pursuant to Penal Code section 1000. At a hearing on or about September 5,  
26 2008, the matter was dismissed by the court following Respondent's successful completion of the  
27 drug program.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Violation of California Statutes Regulating**  
3 **Controlled Substances & Dangerous Drugs)**

4 15. Respondent is subject to disciplinary action under sections 4301,  
5 subdivision (j) and 4060 of the Code in that on or about November 14, 2006, Respondent  
6 knowingly violated California statutes regulating controlled substances and dangerous drugs  
7 when she was found in possession and under the influence of methamphetamine, and controlled  
8 substance paraphernalia as detailed in paragraph 13, above. Such acts constitute unprofessional  
9 conduct and are substantially related to the qualifications, duties, and functions of a pharmacy  
10 technician.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct – Self-Administration of a Controlled Substance)**

13 16. Respondent is subject to disciplinary action under sections 4301,  
14 subdivision (h) of the Code in that on or about November 14, 2006, Respondent admitted to  
15 smoking methamphetamine, as detailed in paragraph 13, above. The self-administration of an  
16 illegal controlled substance constitutes unprofessional conduct and is substantially related to the  
17 qualifications, duties, and functions of a pharmacy technician.

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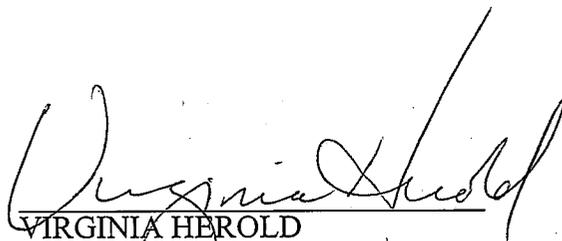
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**PRAYER**

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 30005, issued to Genoveva Pereda;
2. Ordering Genoveva Pereda 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: 6/24/09

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

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