

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 RON ESPINOZA
Deputy Attorney General
4 State Bar No. 176908
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2100
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3511

12 **AMY MARIE CETRONE**
13 3775 Villa Terrace
14 San Diego, CA 92104

A C C U S A T I O N

15 Pharmacy Technician Registration
16 No. TCH 54565

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about January 27, 2004, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 54565 to Amy Marie Cetrone (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein, and will expire on November 30, 2011, unless renewed.

27 ///

28 ///

1 **JURISDICTION**

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

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

9 5. Section 4300 of the Code states:

10 "(a) Every license issued may be suspended or revoked.

11 "(b) The board shall discipline the holder of any license issued by the board, whose default
12 has been entered or whose case has been heard by the board and found guilty, by any of the
13 following methods:

14 "(1) Suspending judgment.

15 "(2) Placing him or her upon probation.

16 "(3) Suspending his or her right to practice for a period not exceeding one year.

17 "(4) Revoking his or her license.

18 "(5) Taking any other action in relation to disciplining him or her as the board in its
19 discretion may deem proper.

20 ". . . .

21 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
22 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
23 shall have all the powers granted therein. The action shall be final, except that the propriety of
24 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
25 Civil Procedure."

26 ///

27 ///

28 ///

1 public protection shall take priority over rehabilitation and, where evidence of rehabilitation and
2 public protection are in conflict, public protection shall take precedence.”

3 8. Section 482 of the Code states:

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

6 “. . . .

7 “(b) Considering suspension or revocation of a license under Section 490.

8 “Each board shall take into account all competent evidence of rehabilitation furnished by
9 the applicant or licensee.”

10 9. Section 490 of the Code provides that a board may suspend or revoke a license on the
11 ground that the licensee has been convicted of a crime substantially related to the qualifications,
12 functions, or duties of the business or profession for which the license was issued.

13 10. Section 493 of the Code states:

14 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
15 the department pursuant to law to deny an application for a license or to suspend or revoke a
16 license or otherwise take disciplinary action against a person who holds a license, upon the
17 ground that the applicant or the licensee has been convicted of a crime substantially related to the
18 qualifications, functions, and duties of the licensee in question, the record of conviction of the
19 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
20 and the board may inquire into the circumstances surrounding the commission of the crime in
21 order to fix the degree of discipline or to determine if the conviction is substantially related to the
22 qualifications, functions, and duties of the licensee in question.

23 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and
24 ‘registration.’”

25 REGULATIONS

26 11. California Code of Regulations, title 16, section 1769, subdivision (b) states:

27 “When considering the suspension or revocation of a facility or personal license on the
28 ground that the licensee or the registrant has been convicted of a crime, the board in evaluating

1 the rehabilitation of such person and her present eligibility for a license will consider the
2 following:

3 “(1) The nature and severity of the act(s) or offense(s).

4 “(2) Total criminal record.

5 “(3) Time that has elapsed since the commission of the act(s) or offense(s).

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

8 “(5) Evidence, if any, of rehabilitation submitted by the licensee.”

9 12. California Code of Regulations, title 16, section 1770, states:

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

16 **DRUG**

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

20 **COST RECOVERY**

21 14. Section 125.3 of the Code provides, that the Board may request the administrative
22 law judge to direct a licentiate found to have committed a violation or violations of the licensing
23 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
24 case.

25 ///

26 ///

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(July 15, 2004 Conviction for Burglary on April 24, 2004)**

3 15. Respondent is subject to disciplinary action under Code sections 490 and 4301,
4 subdivision (1), in that she was convicted of a crime substantially related to the duties, functions,
5 and qualifications of a pharmacy technician. The circumstances are as follows:

6 a. On July 15, 2004, in a criminal proceeding entitled *People v. Amy Marie Cetrone*, in
7 the Superior Court of California, County of San Diego, East County Division case no. CE240734,
8 Respondent was convicted by her plea of guilty to a violation of Penal Code section 459
9 (burglary), a misdemeanor.

10 b. The circumstances of the crime are that on April 24, 2004, Respondent went to
11 Barona Casino in Lakeside, California, with a fictitious check with the intent to cash the check for
12 \$1,000. Although Respondent's name was printed on the check, the account number on the check
13 belonged to a different account holder, not Respondent.

14 c. Respondent was sentenced as follows: summary probation for three years, 365 days
15 custody stayed pending successful completion of probation, serve 15 days in jail, and pay various
16 fines and fees. On February 10, 2005, the San Diego County Sheriff's Department issued a
17 Notification of Program Failure in that Respondent was sentenced to 15 eight-hour workdays in
18 lieu of 15 days in custody. Respondent failed to complete her work assignment and was
19 terminated from the Sheriff's Work Release Program. On March 21, 2005, Respondent failed to
20 appear and pay her fines and fees and was referred to collection. On May 9, 2005, a warrant was
21 issued against Respondent for failing to complete her 15 eight-hour workdays in lieu of custody
22 and her probation was revoked. On May 13, 2005, Respondent appeared ex-parte and in custody
23 before the El Cajon Superior Court regarding her probation that was revoked on May 9, 2005, and
24 her warrant was cleared. Respondent was assessed various fines and fees. Respondent was
25 ordered to complete a Public Work Service Program for 12 days (and received credit for 3 days
26 time served).

27 ///

28 ///

1 no. SCS235504, Respondent pled guilty to violation of Health and Safety Code section 11378,
2 unlawful possession of a controlled substance (methamphetamine) for sale, a felony.

3 b. The circumstances of the crime are that on January 9, 2010, two San Diego Police
4 officers were conducting routine patrol in the area of San Ysidro, San Diego. They observed
5 multiple objects hanging from the rear view mirror of a Dodge Stratus and conducted a traffic
6 stop. The driver was identified as Respondent and she was driving on a suspended license and
7 had a valid fourth waiver status. A search was conducted and methamphetamine was found in
8 Respondent's vehicle.

9 c. As a result of the conviction, Respondent was sentenced to three years probation and
10 180 days custody.

11 **PRAYER**

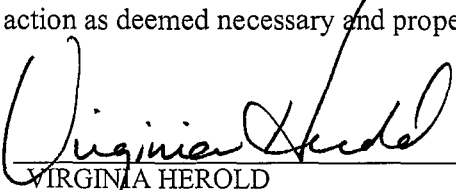
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 54565,
15 issued to Amy Marie Cetrone;

16 2. Ordering Amy Marie Cetrone to pay the Board of Pharmacy the reasonable costs of
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3;

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

20
21 DATED: 7/6/10


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

25 SD2009804873
26 80408039.doc