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

12
13 In the Matter of the Accusation Against:

Case No. 3544

14 **EUNICE JASMINE CANO**
7900 Quill Drive
15 Downey, CA 90242

ACCUSATION

16 **Pharmacy Technician License No. TCH 46972**

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 February 4, 2003, the Board of Pharmacy (Board) issued Pharmacy
24 Technician License No. TCH 46972 to Eunice Jasmine Cano (Respondent). The Pharmacy
25 Technician License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on July 31, 2012, unless renewed.

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1 [the Pharmacy Law]. A plea or verdict of guilty or a conviction following a plea of nolo
2 contendere is deemed to be a conviction within the meaning of this provision. The board may
3 take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed
4 on appeal or when an order granting probation is made suspending the imposition of sentence,
5 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to
6 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
7 guilty, or dismissing the accusation, information, or indictment.

8
9 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violation of or conspiring to violate any provision or term of this chapter [the Pharmacy Law] or
11 of the applicable federal and state laws and regulations governing pharmacy, including
12 regulations established by the board or by any other state or federal regulatory agency. . . ."

13 7. Section 4060 states, in part, that:

14 "No person shall possess any controlled substance, except that furnished to a person upon
15 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
16 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
17 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
18 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
19 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
20 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
21 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
22 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
23 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
24 labeled with the name and address of the supplier or producer."

25 8. Section 492 states:

26 "Notwithstanding any other provision of law, successful completion of any diversion
27 program under the Penal Code, or successful completion of an alcohol and drug problem
28 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of

1 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
3 division, from taking disciplinary action against a licensee or from denying a license for
4 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
5 record pertaining to an arrest.

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

9 REGULATORY PROVISIONS

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

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

17 COST RECOVERY

18 10. Section 125.3 provides, in part, that the Board may request the administrative law
19 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
20 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

21 CONTROLLED SUBSTANCE / DANGEROUS DRUG

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

25 FIRST CAUSE FOR DISCIPLINE

26 (Conviction of a Substantially Related Crime)

27 12. Respondent is subject to disciplinary action under section 4301, subdivision (l), in
28 conjunction with California Code of Regulations, title 16, section 1770, on the grounds of

1 unprofessional conduct, in that Respondent was convicted of a crime substantially related to the
2 qualifications, functions or duties of a licensee which to a substantial degree evidences her
3 present or potential unfitness to perform the functions authorized by her license in a manner
4 consistent with the public health, safety, or welfare, as follows:

5 a. On or about February 18, 2009, in the criminal proceeding entitled *The People of the*
6 *State of California v. Eunice Jasmine Cano* (Super. Ct. Los Angeles County, 2008, No.
7 8DY08580), Respondent placed Respondent on deferred entry of judgment on her plea of guilty
8 to one misdemeanor count of violating Health and Safety Code section 11377(a) [possession of a
9 controlled substance, Methamphetamine]. The Court ordered Respondent to pay fines and to
10 complete a Penal Code section 1000 drug program within 18 months. On or about January 28,
11 2010, the Court reinstated Respondent's deferred entry of judgment. On or about April 28, 2010,
12 Respondent paid fees owing to the Court and the Court set aside the judgment and dismissed the
13 action.

14 b. The circumstances underlying the action are that on or about December 28, 2008, Los
15 Angeles Sheriff's Department officers arrested Respondent for being in possession of
16 Methamphetamine, a controlled substance and dangerous drug, without a valid prescription.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Possession of Controlled Substances)**

19 13. Respondent is subject to disciplinary action under section 4301, subdivision (j), for
20 violating section 4060, on the grounds of unprofessional conduct, in that on or about
21 December 28, 2008, Respondent was in possession of methamphetamine, a controlled substance
22 and dangerous drug, without a valid prescription. Complainant refers to and by this reference
23 incorporates the allegations set forth above in paragraph 13, subparagraphs (a) and (b), inclusive,
24 as though set forth fully.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Violate Chapter - Unprofessional Conduct)**

27 14. Respondent is subject to disciplinary action under section 4301, subdivision (o), on
28 the grounds of unprofessional conduct, in that Respondent violated provisions of the Pharmacy

1 Law and/or the applicable federal and state laws and regulations governing pharmacy, including
2 regulations established by the board or by any other state or federal regulatory agency.

3 Complainant refers to and by this reference incorporates the allegations set forth above in
4 paragraphs 12 - 13, inclusive, as though set forth fully.

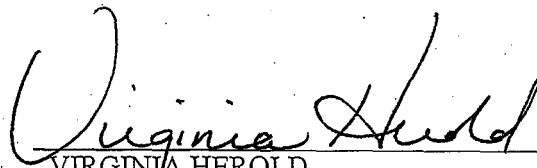
5 **PRAYER**

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

- 8 1. Revoking or suspending Pharmacy Technician License No. TCH 46972, issued to
9 Respondent;
- 10 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
11 enforcement of this case, pursuant to section 125.3; and,
- 12 3. Taking such other and further action as deemed necessary and proper.

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14
15 DATED: _____

1/27/11


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

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