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| 1- | EDITION DOLLAR TOTAL | | | |
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| 6 | Sacramento, CA 94244-2550 Telephone: (916) 322-8311 | | | |
| 7 | Facsimile: (916) 327-8643 | · . | | |
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| 9 | BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS | | | |
| 10 | STATE OF CALIFORNIA | | | |
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| 12 | 2 JENNEY MARIE GARRETT | | | |
| 13 | PO Box 1844 Sutter Creek, CA 95685 ACCUSATION | ACCUSATION | | |
| . 14 | 4 | | | |
| 1.5 | 5 Pharmacy Technician Registration Number TCH 96428 | | | |
| 16 | 6 Respondent. | | | |
| 17 | 7 | • • | | |
| 18 | 8 Complainant alleges: | | | |
| 19 | 9 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 Affa | irs. | | |
| 22 | 2. On or about January 14, 2010, the Board of Pharmacy issued Pharmac | y Technician | | |
| 23 | License Number TCH 96428 to Jenney Marie Garrett (Respondent). The Pharmacy Technician | | | |
| 24 | License was in full force and effect at all times relevant to the charges brought herein and will | | | |
| 25 | expire on December 31, 2011, unless renewed. | | | |
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III

JURISDICTION

- 3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

5. Section 4301 of the Code states, in part:

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:

- (h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be 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.
- 6. Health and Safety Code section 11550, subsection (a) states, in part:

No person shall use, or be under the influence of any controlled substance which is (1)... specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055,... except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances...

COST RECOVERY

7. Section 125.3 of the Code states, 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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CONTROLLED SUBSTANCE AT ISSUE

8. "Methamphetamine" is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2).

FIRST CAUSE FOR DISCIPLINE

(Use of Controlled Substances)

9. Respondent is subject to disciplinary action under section 4301, subsection (h) in that on or about April 9, 2010, Respondent admitted to using the controlled substance methamphetamine. The circumstances are that on or about April 9, 2010 at approximately 9:30 p.m., officers from San Mateo Police Department conducted a probation search of the residence of a known drug user located in San Mateo, California. Respondent was the girlfriend of the probationer whose home was being searched. Respondent displayed objective signs of being under the influence (dilated pupils, rapid heart rate, sweating, thick speech, etc.) When questioned by officers, Respondent admitted that she had used Methamphetamine at 8:00 p.m. that evening with her boyfriend by snorting the controlled substance. Respondent did not have a lawful purpose for using the controlled substance. Respondent also admitted to being a drug user in the past.

SECOND CAUSE FOR DISCIPLINE

(Violation of Statute Regulating Controlled Substances)

10. Respondent is subject to disciplinary action under section 4301, subsection (j) in that Respondent violated Health and Safety Code section 11550 subsection (a) which regulates the use of controlled substances. The circumstances are that on or about April 9, 2010, Respondent admitted to using methamphetamine 1.5 hours prior to the officers' arrival and was found to be under the influence of methamphetamine by San Mateo Police officers, as further set forth in paragraph 9, above.

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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 License Number TCH 96428, issued to Jenney Marie Garrett;
- 2. Ordering Jenney Marie Garrett 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: 12/30/10

VIRGINIA HEROLD

Executive Officer Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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