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	BEFORE THE
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against: Case No. 3959
11	GEOVANNA DE LA FUENTE
12	14314 Los Angeles St.Baldwin Park, CA 91706ACCUSATION
13	Pharmacy Technician License No. TCH 78752
14	Respondent.
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17	Complainant alleges:
18	PARTIES
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
21	2. On or about October 10, 2007, the Board issued Pharmacy Technician License No.
22	TCH 78752 to Geovanna de la Fuente (Respondent). The Pharmacy Technician License was in
23	full force and effect at all times relevant to the charges brought herein and will expire on June 30,
24	2013, unless renewed.
25	JURISDICTION
26	3. This Accusation is brought before the Board under the authority of the following
27	laws. All section references are to the Business and Professions Code unless otherwise indicated.
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	Accusation

1	STATUTORY PROVISIONS
2	4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or
3	cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
4	action during the period within which the license may be renewed, restored, reissued or
5	reinstated.
6	5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license
7	on the ground that the licensee has been convicted of a crime substantially related to the
8	qualifications, functions, or duties of the business or profession for which the license was issued
9	6. Section 4060 states that "[n]o person shall possess any controlled substance, except
10	that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
11	veterinarian, or naturopathic doctor"
12	7. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
13	revoked."
14	8. Section 4301 states, in pertinent part:
15	"The board shall take action against any holder of a license who is guilty of unprofessional
16	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
17	Unprofessional conduct shall include, but is not limited to, any of the following:
18	••••
19	"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
20	corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
21	whether the act is a felony or misdemeanor or not.
22	••••
23	"(h) The administering to oneself, of any controlled substance, or the use of any dangerous
24	drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
25	oneself, to a person holding a license under this chapter, or to any other person or to the public, or
26	to the extent that the use impairs the ability of the person to conduct with safety to the public the
27	practice authorized by the license.
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Accusation

"(j) The violation of any of the statutes of this state, or any other state, or of the UnitedStates regulating controlled substances and dangerous drugs.

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

The conviction of a crime substantially related to the qualifications, functions, and "(1) 6 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 7 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 8 substances or of a violation of the statutes of this state regulating controlled substances or 9 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 10 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 11 The board may inquire into the circumstances surrounding the commission of the crime, in order 12 to fix the degree of discipline or, in the case of a conviction not involving controlled substances 13 or dangerous drugs, to determine if the conviction is of an offense substantially related to the 14 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 15 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 16 17 of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made 18 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 19 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 20 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 21 indictment...." 22

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REGULATORY PROVISION

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

"For the purpose of denial, suspension, or revocation of a personal or facility license
pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
crime or act shall be considered substantially related to the qualifications, functions or duties of a
licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

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Accusation

1	licensee or registrant to perform the functions authorized by his license or registration in a manner
2	consistent with the public health, safety, or welfare."
3	COST RECOVERY
4	10. Section 125.3 states, in pertinent part, that the Board may request the administrative
5	law judge to direct a licentiate found to have committed a violation or violations of the licensing
6	act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
7	case.
8	CONTROLLED SUBSTANCES / DANGEROUS DRUGS
9	11. Methamphetamine is a Schedule II controlled substance as designated by Health and
10	Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to
11	section 4022.
12	FIRST CAUSE FOR DISCIPLINE
13	(Convictions of Substantially Related Crimes)
14	12. Respondent is subject to disciplinary action under section 490, 4300 and 4301,
15	subdivision (1), in conjunction with California Code of Regulations, title 16, section 1770, on the
16	grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
17	related to the qualifications, functions or duties of a registered pharmacy technician which to a
18	substantial degree evidence her present or potential unfitness to perform the functions authorized
19	by her registration in a manner consistent with the public health, safety, or welfare, as follows:
20	a. On or about July 1, 2010, after pleading guilty and having deferred entry of judgment
21	terminated, Respondent was convicted of two (2) misdemeanor counts, Count 1, violating Health
22	and Safety Code section 11377(a) [possession of controlled substance, to wit, methamphetamine],
23	and Count 2, violating Health and Safety Code section 11364(a) [possession of controlled
24	substance smoking device] in the criminal proceeding entitled The People of the State of
25	California v. Geovanna delaFuente (Super. Ct. Los Angeles County, 2009, No. 9JB08635). An
26	arrest warrant was issued.
27	b. The circumstances underlying the conviction are that on or about September 30,
28	2009, after a routine traffic stop and arresting Respondent on an outstanding arrest warrant, she
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	Accusation

was found in possession of methamphetamine and its smoking device. Respondent admitted to
 smoking methamphetamine about two times a week to help get her chores done, and obtains her
 methamphetamine from her cousin.

c. On or about October 2, 2009, after pleading guilty, Respondent was convicted of one
misdemeanor count of violating Vehicle Code section 14601.1(a) [drive when privilege
suspended or revoked] in the criminal proceeding entitled *The People of the State of California v. Geovanna de la Fuente* (Super. Ct. Los Angeles County, 2009, No. 9JB06718). The Court
sentenced Respondent to three (3) years probation, and ordered her to complete seven (7) days of
community labor.

10 d. The circumstances underlying the conviction occurred on or about June 23, 2009, and 11 Respondent was arrested.

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SECOND CAUSE FOR DISCIPLINE

(Convictions Involving Dangerous Drugs)

13. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (k), in that on or about July 1, 2010, Respondent sustained convictions involving the use, consumption, or self-administration of dangerous drugs, to wit, methamphetamine. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 12, subparagraphs a and b, inclusive, as though set forth fully. <u>THIRD CAUSE FOR DISCIPLINE</u>

(Illegal Possession of a Controlled Substance)

14. Respondent is subject to disciplinary action under sections 4300 and 4301,
subdivision (j), in conjunction with section 4060, on the grounds of unprofessional conduct, in
that on or about September 30, 2009, Respondent was in possession of methamphetamine, a
controlled substance and dangerous drug, without a valid prescription. Complainant refers to and
by this reference incorporates the allegations set forth above in paragraph 12, subparagraphs a
and b, inclusive, as though set forth fully.

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1	FOURTH CAUSE FOR DISCIPLINE
2	(Dangerous Use of Controlled Substances)
3	15. Respondent is subject to disciplinary action under sections 4300 and 4301,
4	subdivision (h), on the grounds of unprofessional conduct, in that Respondent admitted to using
5	methamphetamine, which use is it to the extent or in a manner as to be dangerous or injurious to
6	herself or others. Complainant refers to and by this reference incorporates the allegations set
7	forth above in paragraph 12, subparagraphs a and b, inclusive, as though set forth fully.
8	FIFTH CAUSE FOR DISCIPLINE
9	(Violating Drug Statutes)
10	16. Respondent is subject to disciplinary action under sections 4300 and 4301,
11	subdivision (j), on the grounds of unprofessional conduct, for violating Health and Safety Code
12	sections 11173, subdivision (a), and 11364, subdivision (a), in that Respondent
13	obtained/possessed a controlled substance without a valid prescription. Complainant refers to and
14	by this reference incorporates the allegations set forth above in paragraph 12, subparagraphs a
15	and b, as though set forth fully.
16	SIXTH CAUSE FOR DISCIPLINE
17	(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)
18	17. Respondent is subject to disciplinary action under sections 4300 and 4301,
19	subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
20	involving moral turpitude, dishonesty, fraud, deceit and / or corruption. Complainant refers to
21	and by this reference incorporates the allegations set forth above in paragraphs 12 - 16, inclusive,
22	as though set forth fully.
23	DISCIPLINE CONSIDERATIONS
24	18. To determine the degree of discipline, Complainant alleges that:
25	a. On or about August 13, 2007, after pleading guilty, Respondent was convicted of one
26	misdemeanor count of violating Vehicle Code section 12500(a) [drive without a valid driver's
27	license] in the criminal proceeding entitled The People of the State of California v. Geovanna de
28	la Fuente (Super. Ct. Los Angeles County, 2006, No. 6PK09957). The Court sentenced
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	Accusation

Respondent to two (2) years probation, and ordered her to complete five (5) days of Tree Farm 1 Service. The circumstances underlying the conviction occurred on or about December 13, 2006, and Respondent was arrested.

b. On or about July 30, 2003, after pleading guilty, Respondent was convicted of one 4 interlineated misdemeanor count of violating Penal Code section 415(3) [offensive word in 5 public] in the criminal proceeding entitled The People of the State of California v. Geovanna 6 delaFuente (Super. Ct. Los Angeles County, 2003, No. 3RH03916). The Court sentenced 7 Respondent to 24 months probation, ordered her to complete 160 hours of community service, 8 9 ordered her to stay away from the victim and ordered her to pay restitution to the victim. The 10 circumstances occurred on or about July 4, 2003, when Respondent in concert with five (5) others, two males and three females, attacked victim Y.M. in the street after throwing bricks at 11 her broken down vehicle and chasing her down. 12

PRAYER

WHEREFORE. Complainant requests that a hearing be held on the matters herein alleged, 14 and that following the hearing, the Board issue a decision: 15

Revoking or suspending Pharmacy Technician License No. TCH 78752, issued to 16 1. 17 Geovanna de la Fuente;

2. Ordering Geovanna de la Fuente to pay the Board the reasonable costs of the 18 investigation and enforcement of this case, pursuant to section 125.3; and 19

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

19/12 DATED:

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VIRGINI H Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant