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

11 In the Matter of the Accusation Against:

Case No. 4234

12 **CATHERINE DREW CANTRELL**
1081 W. Arrow Hwy, #42
13 Azusa, CA 91702

ACCUSATION

14 Pharmacy Technician Registration No. TCH
116875

15
16 Respondent.

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18 Complainant alleges:

19 **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 Affairs (Board).

22 2. On or about October 31, 2011, the Board issued Pharmacy Technician License No.
23 TCH 116875 to Catherine Drew Cantrell (Respondent). The Pharmacy Technician License was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 August 31, 2013, unless renewed.

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1 **JURISDICTION**

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

4 **STATUTORY PROVISIONS**

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

9 5. Section 490 states:

10 "(a) In addition to any other action that a board is permitted to take against a licensee, a
11 board may suspend or revoke a license on the ground that the licensee has been convicted of a
12 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
13 or profession for which the license was issued.

14 (b) Notwithstanding any other provision of law, a board may exercise any authority to
15 discipline a licensee for conviction of a crime that is independent of the authority granted under
16 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
17 of the business or profession for which the licensee's license was issued.

18 (c) A conviction within the meaning of this section means a plea or verdict of guilty or a
19 conviction following a plea of nolo contendere. Any action that a board is permitted to take
20 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
21 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
22 made suspending the imposition of sentence, irrespective of a subsequent order under the
23 provisions of Section 1203.4 of the Penal Code."

24 6. Section 4060 states:

25 "No person shall possess any controlled substance, except that furnished to a person upon
26 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
27 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
28 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a

1 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
2 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
3 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
4 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
5 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
6 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
7 labeled with the name and address of the supplier or producer.

8 Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
9 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
10 devices."

11 7. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
12 revoked."

13 8. Section 4301 states, in pertinent part:

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

17

18 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
19 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
20 whether the act is a felony or misdemeanor or not.

21

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

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28 (j) The violation of any of the statutes of this state, or any other state, or of the United

1 States regulating controlled substances and dangerous drugs.

2

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

20 **REGULATORY PROVISIONS**

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

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

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DRUG STATUTES

10. Health and Safety Code section 11170 states that "[n]o person shall prescribe, administer, or furnish a controlled substance for himself."

11. Health and Safety Code section 11173, subdivision (a), states "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

12. Health and Safety Code section 11350, subdivision (a), states, in pertinent part: "Except as otherwise provided in this division, every person who possess (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison."

13. Health and Safety Code section 11377, subdivision (a), states, in pertinent part: "Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison."

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1 **COST RECOVERY**

2 14. Section 125.3 states, in pertinent part, that the Board may request the administrative
3 law judge to direct a licensee found to have committed a violation or violations of the licensing
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
5 case.

6 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

7 15. **Methamphetamine**, a (CNS) central nervous system stimulant, is a Schedule II
8 controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2),
9 and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Conviction of a Substantially-Related Crime)**

12 16. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
13 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
14 grounds of unprofessional conduct, in that Respondent was convicted of a crime substantially
15 related to the qualifications, functions or duties of a registered pharmacy technician which to a
16 substantial degree evidence her present or potential unfitness to perform the functions authorized
17 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

18 a. On or about July 25, 2011, after pleading *guilty*, Respondent was convicted of one
19 felony count of violating Penal Code section 459 [burglary], in the criminal proceeding entitled
20 *The People of the State of California v. Catherine Cantrell* (Super. Ct. San Bernardino County,
21 2011, No. FWV1101768). The court sentenced Respondent to serve 120 days in jail, placed
22 Respondent on probation for a period of 36 months, and fined her. The circumstances
23 surrounding the conviction are that on or about July 13, 2011, San Bernardino Sheriff's Officers
24 obtained a search warrant for a residence located in the City of Rosemead, California. After an
25 investigation, two suspects were arrested on or about June 30, 2011 for being involved in a scam
26 of using fraudulent barcodes/SKU labels to purchase merchandise from various Home Depot
27 Department stores. On or about July 13, 2011, while conducting the search at the residence in
28 Rosemead, Respondent was one of the female individuals found at the property. The officers ran

1 Respondent's name through a database search through Home Depot Department stores and
2 identified Respondent as an individual who had made several fraudulent returns to Home Depot
3 Department stores from October 2010 through July 7, 2011. When questioned, the Respondent
4 admitted to the officers that she was involved in the scam by returning various items to various
5 Home Depot Department stores. Respondent further admitted to officers that she had returned
6 items to Home Depot Department stores on (7) seven different occasions. Respondent's vehicle
7 was searched at the premises as part of a search warrant, and officers recovered a plastic baggie
8 containing methamphetamine. Respondent admitted to the officers that she was, "under the
9 influence and had used methamphetamine the previous night." Respondent also admitted to the
10 officers that she had purchased, "\$100 worth, but had used some the previous night." Respondent
11 was subsequently convicted of violating Penal Code section 459.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Dangerous Use of Alcohol and / or Drugs)**

14 17. Respondent is subject to disciplinary action under sections 4300 and 4301,
15 subdivision (h), on the grounds of unprofessional conduct, in that Respondent administered to
16 herself alcohol and / or used a dangerous drug to the extent or in a manner as to be dangerous or
17 injurious to herself or others. Complainant refers to, and by this reference incorporates, the
18 allegations set forth above in paragraph 16, subparagraph (a), inclusive, as though set forth fully.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violating Drug Statutes)**

21 18. Respondent is subject to disciplinary action under sections 4300 and 4301,
22 subdivision (j), on the grounds of unprofessional conduct, for violating provisions of the Health
23 and Safety Code as follows:

24 a. Section 11170 for prescribing, administering and / or furnishing a controlled
25 substance for herself.

26 b. Section 11377, subdivision (a), by possessing Methamphetamine, a controlled
27 substance.

28

1 Complainant refers to, and by this reference incorporates, the allegations set forth above in
2 paragraph 16, subparagraph (a), inclusive, as though set forth fully.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

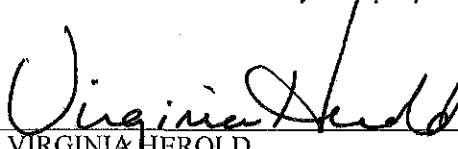
5 19. Respondent is subject to disciplinary action under sections 4300 and 4301,
6 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
7 involving moral turpitude, dishonesty, fraud, deceit and / or corruption. Complainant refers to,
8 and by this reference incorporates, the allegations set forth above in paragraphs 16 through 18,
9 inclusive, as though set forth fully.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Technician License No. TCH 116875, issued to
14 Catherine Drew Cantrell;
- 15 2. Ordering Catherine Drew Cantrell to pay the Board the reasonable costs of the
16 investigation and enforcement of this case, pursuant to section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 9/20/12


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

23 LA2012602083
24 accusation.rtf
25 06/08/12-IC
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