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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:	Case No. 4383
11 <b>TERESSA ANGELA DE LONG</b>	
12 <b>1005 La Terrace Circle</b>	
13 <b>San Jose, CA 95123</b>	<b>ACCUSATION</b>
14 <b>Pharmacy Technician License No. TCH 20845</b>	
15 Respondent.	

16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 20 2. On or about December 13, 1996, the Board of Pharmacy issued Pharmacy Technician  
21 License No. TCH 20845 to Teressa Angela De Long (Respondent). The Pharmacy Technician  
22 License was in full force and effect at all times relevant to the charges brought herein and will  
23 expire on December 31, 2012, unless renewed.

24  
25 JURISDICTION

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

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.]. Section 4300(a) of the Code provides that every  
4 license issued by the Board may be suspended or revoked.

5 5. Section 118(b) of the Code provides, in pertinent part, 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. Section 4402(a) of the Code provides that any pharmacist license that is not  
9 renewed within three years following its expiration may not be renewed, restored, or reinstated  
10 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of  
11 the Code provides that any other license issued by the Board may be canceled by the Board if not  
12 renewed within 60 days after its expiration, and any license canceled in this fashion may not be  
13 reissued but will instead require a new application to seek reissuance.

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15 STATUTORY AND REGULATORY PROVISIONS

16 6. Section 4301 of the Code provides, in pertinent part, that the Board shall take action  
17 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but  
18 not be limited to, any of the following:

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

24 (j) The violation of any of the statutes of this state, of any other state, or of the United  
25 States regulating controlled substances and dangerous drugs.

26 (l) The conviction of a crime substantially related to the qualifications, functions, and duties  
27 of a licensee under this chapter.

28 ///

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
3 federal and state laws and regulations governing pharmacy, including regulations established by  
4 the board or by any other state or federal regulatory agency.

5 7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or  
6 revoke a license when it finds that the licensee has been convicted of a crime substantially related  
7 to the qualifications, functions or duties of the license.

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

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

15 9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any  
16 controlled substance, except that furnished upon a valid prescription/drug order.

17 10. Health and Safety Code section 11170 provides that no person shall prescribe,  
18 administer, or furnish a controlled substance for himself or herself.

19 11. Health and Safety Code section 11357, in pertinent part, makes it unlawful for any  
20 person to possess **marijuana** or concentrated cannabis.

21 12. Health and Safety Code section 11364, in pertinent part, makes it unlawful to possess  
22 an opium pipe or other paraphernalia used to inject or smoke controlled substances.

23 13. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess  
24 any controlled substance in Schedule II, subdivision (d), without a prescription.

25 14. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any  
26 person to use or be under the influence of any controlled substance in Schedule II (Health and  
27 Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules III-V,  
28 except when administered by or under the direction of an authorized licensee.

1 COST RECOVERY

2 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
4 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.  
5

6 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

7 16. Section 4021 of the Code states:

8 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section  
9 11053) of Division 10 of the Health and Safety Code.”

10 17. Section 4022 of the Code states, in pertinent part:

11 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,  
12 except veterinary drugs that are labeled as such, and includes the following:

13 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
14 prescription,’ ‘Rx only,’ or words of similar import.

15 ...

16 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
17 prescription or furnished pursuant to Section 4006.

18 18. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety  
19 Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions  
20 Code section 4022. It is a hallucinogenic drug.

21 19. **Methamphetamine** is a Schedule II controlled substance as designated by Health and  
22 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions  
23 Code section 4022. It is a stimulant drug.  
24

25 FACTUAL BACKGROUND

26 20. On or about February 2, 2002, the San Jose Police Department responded to a “911”  
27 call at a residence, where they encountered Respondent. The officers observed signs that  
28 Respondent was under the influence of a controlled substance.



1 a. On or about February 14, 2011, based on the conduct described in paragraphs  
2 22 and 23, Respondent was charged in Case No. C1199890 with violating (1) Health and Safety  
3 Code section 11377(a) (Possession of controlled substance – **methamphetamine**), a  
4 misdemeanor, (2) Health and Safety Code section 11364 (Possession of Controlled Substance  
5 Paraphernalia), a misdemeanor, and (3) Health and Safety Code section 11550 (Using or Being  
6 Under the Influence of Controlled Substance – **methamphetamine**), a misdemeanor.

7 b. On or about March 25, 2011, Respondent pleaded guilty to the charges upon a  
8 confirmed factual basis, and was granted entry into a Deferred Entry of Judgment (DEJ) program.

9 c. On or about January 25, 2012, Respondent was convicted of all three charges in  
10 the Complaint. Imposition of sentence was suspended in favor of a term of formal probation of  
11 two (2) years, on terms and conditions including substance abuse treatment, fines, and fees.

12 SECOND CAUSE FOR DISCIPLINE

13 (Self-Administration of Controlled Substance(s))

14 24. Respondent is subject to discipline under section 4301(h) of the Code, in that  
15 Respondent, as described in paragraph(s) 20, 21, and/or 22, self-administered one or more  
16 controlled substances, on one or more occasions.

17 THIRD CAUSE FOR DISCIPLINE

18 (Possession of Controlled Substance(s))

19 25. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section  
20 4060 of the Code, and/or Health and Safety Code section(s) 11357 and/or 11377, in that  
21 Respondent, as described in paragraph(s) 20, 21, and/or 22, possessed, conspired to possess,  
22 and/or assisted in or abetted possession of a controlled substance, without a prescription.

23 FOURTH CAUSE FOR DISCIPLINE

24 (Possession of Drug Paraphernalia)

25 26. Respondent is subject to discipline under section 4301(j) and/or (o), and/or Health  
26 and Safety Code section 11364, in that Respondent, as described in paragraph(s) 20, 21, and/or 22  
27 possessed, conspired to possess, and/or assisted in/abetted possession of drug paraphernalia.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Self-Administration/Use of Controlled Substance(s))

3 27. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,  
4 and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in  
5 paragraph(s) paragraph(s) 20, 21, and/or 22, self-administered/used, conspired to self-  
6 administer/use, and/or assisted in/abetted self-administration/use of a controlled substance.

7 SIXTH CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct)

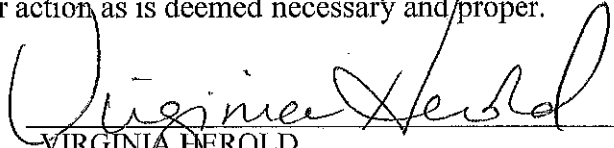
9 28. Respondent is subject to discipline under section 4301 of the Code in that  
10 Respondent, as described in paragraph(s) 20-27, engaged in unprofessional conduct.

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12  
13 PRAYER

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

- 16 1. Revoking or suspending Pharmacy Technician License No. TCH 20845, issued to  
17 Teresa Angela De Long (Respondent);
- 18 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
19 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 20 3. Taking such other and further action as is deemed necessary and proper.

21 DATED: 11/8/12

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

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