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

12 In the Matter of the Accusation Against:	Case No. 4455
13 CRISTINA SERRATO	A C C U S A T I O N
14 1642 W. Shields Ave	
15 Fresno, CA 93705	
16 Pharmacy Technician License No.	
17 TCH92335	
18 Respondent.	

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 (Board), Department of Consumer Affairs
23 (Department).
- 24 2. On or about July 14, 2009, the Board of Pharmacy issued Pharmacy Technician
25 License Number TCH 92335 to Christina Serrato (Respondent). The Pharmacy Technician
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on March 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 AND REGULATORY PROVISIONS**

5 4. Code Section 480 provides:

6 (a) A board may deny a license regulated by this code on the
7 grounds that the applicant has one of the following:

8 (1) Been convicted of a crime. A conviction within the meaning of
9 this section means a plea or verdict of guilty or a conviction
10 following a plea of nolo contendere. Any action that a board is
11 permitted to take following the establishment of a conviction may be
12 taken when the time for appeal has elapsed, or the judgment of
13 conviction has been affirmed on appeal, or when an order granting
14 probation is made suspending the imposition of sentence, irrespective
15 of a subsequent order under the provisions of Section 1203.4 of the
16 Penal Code.

17 (2) Done any act involving dishonesty, fraud, or deceit with the
18 intent to substantially benefit himself or herself or another, or
19 substantially injure another.

20 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
21 revoke a license on the ground that the licensee has been convicted of a crime substantially
22 related to the qualifications, functions, or duties of the business or profession for which the
23 license was issued. A conviction within the meaning of this section means a plea or verdict of
24 guilty or a conviction following a plea of nolo contendere.

25 6. Section 492 of the Code 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
29 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
30 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
31 division, from taking disciplinary action against a licensee or from denying a license for

1 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
2 record pertaining to an arrest.

3 7. Section 493 of the Code states:

4 Notwithstanding any other provision of law, in a proceeding conducted by a board within
5 the department pursuant to law to deny an application for a license or to suspend or revoke a
6 license or otherwise take disciplinary action against a person who holds a license, upon the
7 ground that the applicant or the licensee has been convicted of a crime substantially related to the
8 qualifications, functions, and duties of the licensee in question, the record of conviction of the
9 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
10 and the board may inquire into the circumstances surrounding the commission of the crime in
11 order to fix the degree of discipline or to determine if the conviction is substantially related to the
12 qualifications, functions, and duties of the licensee in question.

13 8. Section 4300 provides in relevant part:

14 “(a) Every license issued may be suspended or revoked.”

15 9. Section 4301 provides in relevant part:

16 The board shall take action against any holder of a license who is guilty of
17 unprofessional conduct. Unprofessional conduct shall include, but not be limited to, any of
18 the following:

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

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

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

1 substances.

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

5 (p) Actions or conduct that would have warranted denial of a
6 license.

7 **COST RECOVERY**

8 10. Section 125.3 of the Code provides, in pertinent part, that the
9 Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
10 have committed a violation or violations of the licensing act to pay a sum not to exceed the
11 reasonable costs of the investigation and enforcement of the case.

12 **FIRST CAUSE FOR DISCIPLINE**

13 (Unprofessional Conduct- Conviction of Crime)
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15 11. Respondent has subjected her license to disciplinary action pursuant to sections 490
16 and 4301(l) on grounds that Respondent has been convicted of crimes substantially related to the
17 duties, responsibilities and qualifications of a pharmacy technician . The circumstances are as
18 follows:

19 a. On or about January 4, 2012 Respondent was convicted by her plea of guilty to
20 the misdemeanor charge of violating Vehicle Code section 14601.1(a), driving with a suspended
21 driver's license, in Madera County Superior Court case captioned People of the State of
22 California v Cristina Serrato, Case No. CCR036797. The circumstances of the case are that on
23 July 7, 2011 Respondent was operating a motor vehicle in Madera County when her driving
24 privilege was suspended and revoked and that Respondent had knowledge of the license
25 suspension and revocation when operating the vehicle.

26 b. On or about June 8, 2012 Respondent was convicted by her plea of guilty to a
27 felony charge of violating Health and Safety Code section 11377(a), unlawful possession of
28 methamphetamine in Madera County Superior Court case captioned People of the State of

1 California v Cristina Serrato, case no. MCR043069. The circumstances of the crime are that
2 Respondent was an occupant of a vehicle reported as stolen. During the course of a police stop,
3 Respondent became argumentative with investigating officers who proceeded to place
4 Respondent in a police vehicle. During a pat down search, the arresting officer felt a small rock
5 object in Respondent's front right coin pocket. The object was determined to be
6 methamphetamine.

7 c. On or about October 17, 2012, Respondent was convicted by her plea of guilty
8 to a felony charge of violating Penal Code section 245(a)(4), Burglary, in Madera County
9 Superior Court Case No. MCR044049 in the case captioned People of the State of California v
10 Cristina Serrato. The circumstances are that Respondent entered an inhabited dwelling with
11 others for the purpose of assisting or otherwise participating in an assault on a resident of the
12 dwelling. The resident of the dwelling suffered serious physical injuries necessitating medical
13 treatment. During these events, personal property of the resident was taken.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct-Denial Of License)

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17 12. Respondent's license is subject to discipline pursuant to Code section 480 and
18 4301(p) on grounds that Respondent has engaged in conduct that would warrant denial of a
19 pharmacy technician license. The circumstances are as follows:

20 13. Paragraph 11 is incorporated herein as though set forth at length. On or about June
21 12, 2012 Respondent engaged in felony conduct that violated Penal Code section 459 and
22 245(a)(4) by committing assault by means likely to produce great bodily injury. The
23 circumstances are that Respondent entered an inhabited dwelling with others for the purpose of
24 assisting or otherwise participatin g in an assault on a resident of the dwelling. The resident of
25 the dwelling suffered serious physical injuries necessitating medical treatment. During these
26 events, personal property of the resident was taken.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct-Conviction Controlled Substance)

3 14. Respondent's license is subject to disciplinary action pursuant to section 4301(j) on
4 grounds Respondent was convicted of a crime involving a violation of State and Federal laws
5 pertaining to controlled substances. The circumstances are as follows:

6 15. Paragraph 11b is incorporated herein as though set forth at length. Respondent was
7 convicted of possession of a controlled substance in violation of California Penal Code section
8 11377.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct-Moral Turpitude)

11 16. Respondent's license is subject to disciplinary action pursuant to section 4301(f) on
12 grounds that Respondent has been convicted of a crime and participated in conduct in violation of
13 the Penal Code involving moral turpitude.

14 17. Paragraphs 11a and 11c are incorporated herein as though set forth at length.
15 Respondent was convicted of driving with a suspended license and having knowledge of the
16 suspension at the time of her arrest. Respondent participated in actions involving entering an
17 inhabited dwelling for the purpose of assisting or participating in unlawful activity resulting in
18 substantial physical harm to one of the dwelling's inhabitants.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacy Technician License Number TCH 92335, issued
23 to Cristina Serrato.

24 2. Ordering Cristina Serrato to pay the Board of Pharmacy the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

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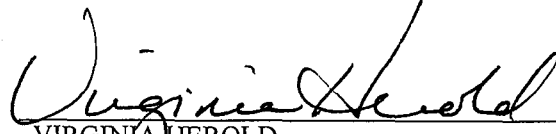
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3. Taking such other and further action as deemed necessary and proper.

DATED:

6/10/13



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

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