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

11 In the Matter of the Accusation Against:

Case No. 4465

12 **KAREN NAVARRO MEDINA**
216 Umber Court
13 San Diego, CA 92114
14 **Pharmacy Technician Registration**
15 **No. TCH 48564**

ACCUSATION

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.

22 2. On or about July 11, 2003, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 48564 to Karen Navarro Medina (Respondent), who also goes by the
24 name of Karen Reyes and Karen Medina Reyes. The Pharmacy Technician Registration was in
25 full force and effect at all times relevant to the charges brought herein and will expire on April 30,
26 2013, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300(a) of the Code states that “[e]very license issued may be suspended or
6 revoked.”

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

11 **STATUTORY AND REGULATORY PROVISIONS**

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to evaluate
14 the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation
18 furnished by the applicant or licensee.

19 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
20 revoke a license on the ground that the licensee has been convicted of a crime substantially
21 related to the qualifications, functions, or duties of the business or profession for which the
22 license was issued.

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8. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

9. Section 493 of the Code states:

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

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

10. Section 4301 of the Code states:

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 of the United States regulating controlled substances and dangerous drugs.

....

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

5 11. Section 4022 of the Code states

6 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
7 self-use in humans or animals, and includes the following:

8 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
9 without prescription," "Rx only," or words of similar import.

10 (b) Any device that bears the statement: "Caution: federal law restricts this
11 device to sale by or on the order of a _____," "Rx only," or words of similar
12 import, the blank to be filled in with the designation of the practitioner licensed to use
13 or order use of the device.

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

16 12. Section 4060 of the Code states:

17 No person shall possess any controlled substance, except that furnished to a
18 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or
19 furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to
20 Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician
21 assistant pursuant to Section 3502.1. This section shall not apply to the possession of
22 any controlled substance by a manufacturer, wholesaler, pharmacy, physician,
23 podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or
24 physician assistant, when in stock in containers correctly labeled with the name and
25 address of the supplier or producer.

26 Nothing in this section authorizes a certified nurse-midwife, a nurse
27 practitioner, or a physician assistant to order his or her own stock of dangerous drugs
28 and devices.

13. Title 16, California Code of Regulations, section 1769, states:

....

(b) When considering the suspension or revocation of a facility or a personal
license on the ground that the licensee or the registrant has been convicted of a crime,
the board, in evaluating the rehabilitation of such person and his present eligibility for
a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

1 14. Title 16, California Code of Regulations, section 1770, states:

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

6 COST RECOVERY

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

11 DRUG

12 16. Methamphetamine is a Schedule II controlled substance pursuant to Health and Safety
13 Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions
14 Code section 4022.

15 FIRST CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct – Under the Influence of a Controlled Substance – 17 Methamphetamine – on December 11, 2011)

18 17. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
19 (o) of the Code in that Respondent was in possession of the controlled substance and dangerous
20 drug, methamphetamine, without a prescription in violation of section 4060 of the Code. The
21 circumstances are as follows:

22 18. On December 11, 2011, at approximately 0230 hours, San Diego Police Department
23 Officers observed a vehicle driving at a high rate of speed. Officers performed a traffic stop of
24 the vehicle and made contact with the driver, M.P. While speaking with M.P., the officers
25 observed that the front passenger and the back driver side passenger could not stop moving and
26 appeared to be very nervous. Their rapid movements were consistent with someone under the
27 influence of a stimulant controlled substance. The front seat passenger continued to move after
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1 she was asked by officers to stop, and it appeared to officers that she was attempting to conceal
2 contraband underneath a jacket that was on her lap. The back seat passenger (Respondent)
3 appeared to be nervous even after sitting in the vehicle for several minutes. Based on
4 Respondent's behavior, officers believed that she might be under the influence of a controlled
5 substance and Respondent was asked to exit the vehicle. Officers performed a field sobriety test
6 of Respondent and observed that her eyelids fluttered. When asked to open her mouth, officers
7 saw that she had a white film along the back of her tongue. Respondent had chapped lips and told
8 officers she was thirsty. Respondent failed the field sobriety test and officers arrested her for
9 being under the influence of controlled substances and transported her to police headquarters
10 where she provided a blood sample. Respondent was booked into Las Colinas Women's
11 Detention Facility. The blood test tested positive for methamphetamine.

12 19. As a result of the arrest, on or about February 9, 2012, in a criminal proceeding
13 entitled *People of the State of California vs. Karen Reyes*, in the Superior Court of California,
14 County of San Diego, in Case Number M143638, Respondent pled guilty to violating Health and
15 Safety Code section 11550 (under the influence of a controlled substance), to wit:
16 methamphetamine.

17 20. As a result of the guilty plea, the court deferred entry of judgment for 18 months and
18 Respondent was placed on drug diversion pursuant to Penal Code section 1000. The Court
19 ordered Respondent to attend self-help meetings as directed by the program advisor, submit to a
20 drug test at any time during the DEOJ period as directed by the Court or provider, and attend and
21 successfully complete a County of San Diego PC1000 program and set a final review for
22 August 2, 2013.

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1 SECOND CAUSE FOR DISCIPLINE

2 **(Unprofessional Conduct – Use of Controlled Substances in a Manner Dangerous or**
3 **Injurious to Self or the Public)**

4 21. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
5 she used controlled substances in a manner dangerous or injurious to herself or the public, to wit:
6 methamphetamine, as if more fully detailed at paragraphs 17-20, above, which are incorporated
7 here by reference.

8 PRAYER

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

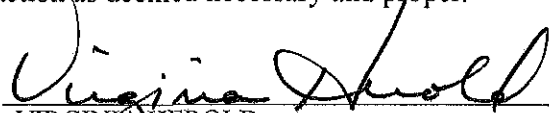
11 1. Revoking or suspending Pharmacy Technician Registration Number TCH 48564,
12 issued to Karen Navarro Medina;

13 2. Ordering Karen Navarro Medina to pay the Board of Pharmacy the reasonable costs
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code
15 section 125.3;

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

17 DATED: _____

18 4/4/13

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

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