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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. 4707

12 **JOAN ALCANTARA CATANGAY**  
13 819 E. Bonds St.  
Carson, CA 90745

**A C C U S A T I O N**

14 Pharmacy Technician Registration  
15 No. TCH 75115

16 Respondent.

17  
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 April 2, 2007, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration No. TCH 75115 to Joan Alcantara Catangay (Respondent). The  
24 Pharmacy Technician Registration expired on October 31, 2012, and has not been 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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**STATUTORY PROVISIONS**

4. Section 492 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."

5. Section 4300 provides in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

6. Section 4300.1 states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

7. Section 4301 states, in pertinent part:

"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

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
3 practice authorized by the license.

4 . . . .

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

7 . . . .

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

12 **REGULATORY PROVISIONS**

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

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

20 **COST RECOVERY**

21 9. Section 125.3 provides, in pertinent part, that the Board may request the  
22 administrative law judge to direct a licentiate found to have committed a violation or violations of  
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
24 enforcement of the case.

25 10. **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

26 "Methamphetamine," is a schedule II controlled substance as defined in Health and Safety  
27 Code section 11055, subdivision (c)(14), and is categorized a dangerous drug pursuant to section  
28 4022.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Use/Under the Influence of a Controlled Substance)**

3 11. Respondent is subject to disciplinary action under section 4301, subdivision (h) and  
4 (j), in that Respondent by her own admission used and/or was under the influence of a controlled  
5 substance, as follows:

6 a. On or about November 21, 2012, the Los Angeles County Sheriff's Department  
7 contacted Respondent after observing her vehicle parked in a handicap space without a handicap  
8 placard displayed. Respondent told the officer she did not have a placard and she was not  
9 handicapped. While speaking to Respondent she was observed to be speaking rapidly, fidgeting,  
10 and shifting her body weight from side to side. When asked if she had anything illegal on her  
11 person, she stated "no." and consented to a search of her person. During the search the officer  
12 recovered a plastic baggie which contained a white crystal like substance resembling  
13 Methamphetamine in Respondent's pant pocket. When asked about it, Respondent stated, "I  
14 forgot I had it in my pocket." She also admitted to using it earlier that day. Respondent was  
15 subsequently arrested for violating Health and Safety Code section 11550, subdivision (a) [under  
16 the influence of a controlled substance].

17 b. Subsequently, on or about November 30, 2012, criminal charges were filed in the  
18 criminal proceeding entitled *The People of the State of California v. Joan Alcantara Catangay*  
19 (Super. Ct. Los Angeles County, 2013, No. 2CP06944). On or about January 28, 2013, after  
20 pleading guilty, the Court placed Respondent on 18 months Deferred Entry of Judgment for one  
21 misdemeanor count of violating Health and Safety Code section 11550, subdivision (a) [under the  
22 influence of a controlled substance].

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Illegal Possession of a Controlled Substance)**

25 12. Respondent is subject to disciplinary action under section 4301, subdivision (j) for  
26 violating section 4060, on the grounds of unprofessional conduct, in that Respondent was found  
27 to be in illegal possession of a controlled substance. Complainant refers to, and by reference

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1 incorporates, the allegations set forth above in paragraph 10, subparagraph (a), as though set forth  
2 fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

5 13. Respondent is subject to disciplinary action under section 4301, (o), in that  
6 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing  
7 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above  
8 in paragraphs 10, subparagraphs (a) and (b), inclusive, as though set forth fully.

9 **DISCIPLINARY CONSIDERATIONS**

10 14. To determine the degree of discipline, if any, to be imposed on Respondent,  
11 Complainant alleges, as follows:

12 a. On or about November 17, 2010, after pleading nolo contendere, Respondent was  
13 convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty  
14 theft] in the criminal proceeding entitled *The People of the State of California v. Joan Catangay*  
15 (Super. Ct. Los Angeles County, 2010, No. 0SY06006.) The Court ordered Respondent to pay a  
16 fine and complete 120 hours of community service.

17 b. The circumstances surrounding the conviction are that on or about June 19, 2010,  
18 Respondent stole, took and carried away personal property of another, to wit: H&M.

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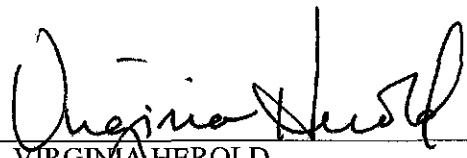
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 75115, issued to Joan Alcantara Catangay;
2. Ordering Joan Alcantara Catangay to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 3/3/14

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

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mc (10/24/13)