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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:
12 **MICHELLE TERESE BLAYLOCK**
Rt. 2
13 Box 487
Delano, CA 93215
14
15 Pharmacy Technician Registration
No. TCH 19797

Case No. 4887

ACCUSATION

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 July 29, 1996, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 19797 to Michelle Terese Blaylock (Respondent). The
24 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
25 brought herein and will expire on January 31, 2014, 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 490 states, in pertinent part:

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

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

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

23 5. Section 492 states:

24 Notwithstanding any other provision of law, successful completion of any
25 diversion program under the Penal Code, or successful completion of an alcohol and
26 drug problem assessment program under Article 5 (commencing with section
27 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
28 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.

6. Section 4060 states, in pertinent part:

No person shall possess any controlled substance, except that furnished to
a person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of

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

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

8. 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.

9. 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:

....

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

....

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

....

(l) The conviction of a crime substantially related to the qualifications,
functions, and duties of a licensee under this chapter. The record of conviction of a
violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
evidence of unprofessional conduct. In all other cases, the record of conviction shall
be conclusive evidence only of the fact that the conviction occurred. The board may
inquire into the circumstances surrounding the commission of the crime, in order to
fix the degree of discipline or, in the case of a conviction not involving controlled
substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under
this chapter. A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this provision. The
board may take action when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under

1 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
3 dismissing the accusation, information, or indictment.

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

10 **REGULATORY PROVISIONS**

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

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

19 **COST RECOVERY**

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

24 **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

25 12. "Methamphetamine," is a schedule II controlled substance as defined in Health and
26 Safety Code section 11055, subdivision (d)(2), and is categorized a dangerous drug pursuant to
27 section 4022.

28 **FIRST CAUSE FOR DISCIPLINE**

(Conviction of a Substantially Related Crime)

13 Respondent is subject to disciplinary action under sections 4300, 4301, subdivision
14 (I) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,
15 Respondent was convicted of a crime substantially related to the qualifications, functions or
16 duties of a pharmacy technician as follows:

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1 a. On or about October 4, 2013, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Penal Code section 32 [accessory] in the
3 criminal proceeding entitled *The People of the State of California v. Michelle Terese Blaylock*
4 (Super. Ct. Kern County, 2013, No. BF150192A). The Court sentenced Respondent to serve
5 eight days in Kern County Jail and placed her on 3 years probation, with terms and conditions.

6 b. The circumstances surrounding the conviction are that on or about June 14, 2013,
7 during an investigation of farming equipment being stolen from a farming property, Respondent
8 was contacted. While speaking to Respondent, the officer could see a ditch pump in the rear of
9 her vehicle. Respondent admitted to driving the vehicle and stopping at a ranch nearby where her
10 boyfriend picked up the ditch pump and placed it in the rear of her vehicle. During a search of
11 Respondent's vehicle, the officer found a glass Methamphetamine smoking pipe inside the center
12 console and a small zippered coin purse next to the pipe. The coin purse contained .5 grams of
13 Methamphetamine wrapped in a piece of clear plastic. Respondent was subsequently arrested for
14 violating Penal code section 487, subdivision (a) [grand theft], Penal Code section 182,
15 subdivision (a)(1) [conspiracy], Health and Safety Code section 11377, subdivision (a)
16 [possession of a controlled substance], Health and Safety Code section 11379 [transportation of a
17 controlled substance], and Health and Safety Code section 11364 [possession of drug
18 paraphernalia].

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Acts Involving Moral turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

21 14. Respondent is subject to disciplinary action under section 4300, 4301, subdivision (f),
22 in that on or about June 14, 2013, Respondent committed acts involving moral turpitude,
23 dishonesty, fraud, deceit, or corruption with the intent to substantially benefit herself, or
24 substantially injure another. Complainant refers to, and by reference incorporates, the allegations
25 set forth above in paragraph 13, subparagraph (b), as though set forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 15. Respondent is subject to disciplinary action under section 4300 and 4301, subdivision
4 (j) for violating section 4060, on the grounds of unprofessional conduct, in that Respondent was
5 found to be in illegal possession of a controlled substance. Complainant refers to, and by
6 reference incorporates, the allegations set forth above in paragraph 13, subparagraph (b), as
7 though set forth fully.

8 **FOURTH CAUSE FOR DISCIPLINE**

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

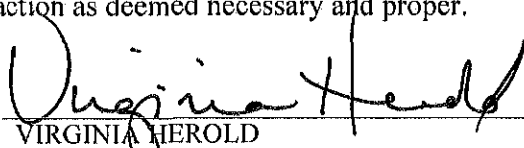
10 16. Respondent is subject to disciplinary action under section 4300 and 4301, subdivision
11 (o), in that Respondent committed acts of unprofessional conduct and/ or violated provisions of
12 the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations set
13 forth above in paragraphs 12, subparagraphs (a) and (b), inclusive, as though set forth fully.

14 **PRAYER**

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

- 17 1. Revoking or suspending Pharmacy Technician Registration No. TCH 19797, issued
18 to Michelle Terese Blaylock;
- 19 2. Ordering Michelle Terese Blaylock to pay the Board the reasonable costs of the
20 investigation and enforcement of this case, pursuant to section 125.3; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 2/19/14

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

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