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

11 In the Matter of the Accusation Against:

Case No. 4943

12 **ASHLEY KATE MAERTZ-RESTUCHI**
2873 Arcade Way, #207
13 Redding, CA 96002

A C C U S A T I O N

14 **Pharmacy Technician Registration No.**
15 **121680**

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 March 27, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number 121680 to Ashley Kate Maertz-Restuchi (Respondent). The Pharmacy
24 Technician Registration expired on July 31, 2013, and has not been renewed.

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 unless otherwise indicated.

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4. Section 4300 of the Code states, in pertinent part:

- (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - (1) Suspending judgment.
 - (2) Placing him or her upon probation.
 - (3) Suspending his or her right to practice for a period not exceeding one year.
 - (4) Revoking his or her license.
 - (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

...

5. Section 4300.1 of the Code 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.

6. Section 4301 of the Code 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.

...

- (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.

...

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

3 ...

4 (l) The conviction of a crime substantially related to the qualifications, functions, and
5 duties of a licensee under this chapter. The record of conviction of a violation of
6 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
7 regulating controlled substances or of a violation of the statutes of this state regulating
8 controlled substances or dangerous drugs shall be conclusive evidence of
9 unprofessional conduct. In all other cases, the record of conviction shall be
10 conclusive evidence only of the fact that the conviction occurred. The board may
11 inquire into the circumstances surrounding the commission of the crime, in order to
12 fix the degree of discipline or, in the case of a conviction not involving controlled
13 substances or dangerous drugs, to determine if the conviction is of an offense
14 substantially related to the qualifications, functions, and duties of a licensee under this
15 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
16 contendere is deemed to be a conviction within the meaning of this provision. The
17 board may take action when the time for appeal has elapsed, or the judgment of
18 conviction has been affirmed on appeal or when an order granting probation is made
19 suspending the imposition of sentence, irrespective of a subsequent order under
20 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
21 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
22 dismissing the accusation, information, or indictment.

23 ...

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

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

COST RECOVERY

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

DRUGS AT ISSUE

9. "Methamphetamine" is a Schedule II controlled substance as designated by Health
and Safety Code section 11055(d)(2).

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Convictions)**

3 10. Respondent is subject to disciplinary action under section 4301, subdivision (I), in
4 that Respondent was convicted of crimes which are substantially related to the qualifications,
5 functions, and duties of a licensed pharmacy technician, as follows:

6 a. On or about October 17, 2014, in the case of *People v. Ashley Kate Maertz, aka*
7 *Ashley Kate Maertzrestuchi*, (Super. Ct. Shasta County, 2014, Case No. 14-03805), Respondent
8 was convicted of violating Penal Code section 451(c) (arson of a structure or land), a felony.
9 Respondent was sentenced to two years state prison. The circumstances are that on or about June
10 22, 2014, a structure fire occurred in a vacant commercial property on Hillmonte Drive, in
11 Redding, California ("Hillmonte fire"). A female suspect, later identified as Respondent, was
12 detained and confessed to intentionally starting the Hillmonte fire because there were demons and
13 devils associated with the building. Respondent stated that she had injected herself with
14 methamphetamine approximately twenty minutes before starting the Hillmonte fire. In addition,
15 Respondent confessed to intentionally starting a fire on or about June 20, 2014 within a vacant
16 single-family dwelling on Churn Creek Road in Redding, California.

17 b. On or about October 17, 2014, in the case of *People v. Ashley Kate Maertzrestuchi*,
18 (Super. Ct. Shasta County, 2013, Case No. 13-06871), Respondent was convicted of violating
19 Penal Code section 487(c) (grand theft from person), a felony. Respondent was sentenced to eight
20 months state prison, to run consecutively with her sentence for the conviction set forth in
21 paragraph 10(a), above. The circumstances are that on or about October 22, 2013, Respondent
22 was in Raley's Supermarket in Redding, California, when store employees observed her stealing
23 numerous items. When a store employee attempted to detain Respondent outside of the store for
24 the theft, and Respondent became violent and attempted to punch the store employee in the face.
25 A second store employee attempted to assist in detaining Respondent, and Respondent became
26 physically violent with both of them and attempted to escape.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dishonest Acts)**

3 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
4 that she committed acts involving moral turpitude, dishonesty, fraud deceit or corruption. The
5 circumstances are that Respondent was convicted of grand theft from person, as set forth in
6 paragraph 10(b), above.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Use of Controlled Substances to the Extent or in
9 a Manner Dangerous or Injurious to Oneself or Other)**

10 12. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
11 that Respondent used controlled substances to the extent or in a manner dangerous or injurious to
12 herself, others and the public. The circumstances are as follows:

13 a.. On or about March 1, 2013, Redding police officers responded to conduct a welfare
14 check of Respondent, based on a report that Respondent was acting strangely and claiming to be
15 in labor. When the officers arrived, they observed Respondent acting strangely, and was
16 displaying objective signs of being under the influence of a controlled substance, including having
17 constricted pupils, rapid speech and making incoherent statements. Respondent stated that she
18 was six months pregnant, in labor, and that she wanted to leave to see her midwife, but did not
19 know the midwife. Respondent initially denied using any medications or illegal drugs. The
20 officers administered a drug recognition evaluation, and determined that Respondent was under
21 the influence of methamphetamine. Respondent admitted that she had used methamphetamine in
22 the past, including the day prior, and had old injection sites on her arms. A blood sample revealed
23 that Respondent had methamphetamine in her system.

24 **PRAYER**

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

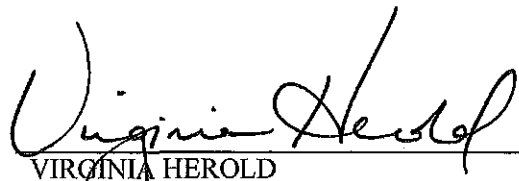
27 1. Revoking or suspending Pharmacy Technician Registration Number 121680, issued
28 to Ashley Kate Maertz-Restuchi.;

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2. Ordering Ashley Kate Maertz-Restuchi to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 4/3/15



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

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