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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. 5076

12 **YVONNE CHRISTIAN SERNA**
13 **P.O. Box 354**
14 **Sultana, CA 93666**

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **122431**

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.1. On or
22 about July 12, 2012, the Board of Pharmacy issued Pharmacy Technician Registration Number
23 TCH 122431 to Yvonne Christian Serna (Respondent). The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 April 30, 2016, unless renewed.

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1 **JURISDICTION**

2 2. 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 3. Section 4300 of the Code states:

6 "(a) Every license issued may be suspended or revoked.

7 "(b) The board shall discipline the holder of any license issued by the
8 board, whose default has been entered or whose case has been heard by the board and
9 found guilty, by any of the following methods:

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

12 "(3) Suspending his or her right to practice for a period not exceeding one
13 year.

14 "(4) Revoking his or her license.

15 "(5) Taking any other action in relation to disciplining him or her as the
16 board in its discretion may deem proper.

17 "(c) The board may refuse a license to any applicant guilty of
18 unprofessional conduct. The board may, in its sole discretion, issue a probationary
19 license to any applicant for a license who is guilty of unprofessional conduct and who
20 has met all other requirements for licensure. The board may issue the license subject
21 to any terms or conditions not contrary to public policy, including, but not limited to,
22 the following:

23 "(1) Medical or psychiatric evaluation.

24 "(2) Continuing medical or psychiatric treatment.

25 "(3) Restriction of type or circumstances of practice.

26 "(4) Continuing participation in a board-approved rehabilitation program.

27 "(5) Abstention from the use of alcohol or drugs.

28 "(6) Random fluid testing for alcohol or drugs.

pharmacy. "(7) Compliance with laws and regulations governing the practice of

"(d) The board may initiate disciplinary proceedings to revoke or suspend
any probationary certificate of licensure for any violation of the terms and conditions
of probation. Upon satisfactory completion of probation, the board shall convert the
probationary certificate to a regular certificate, free of conditions.

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 6. Section 4060 of the Code states:

4 "No person shall possess any controlled substance, except that furnished
5 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
6 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
7 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
8 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
9 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
10 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph
11 (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply
12 to the possession of any controlled substance by a manufacturer, wholesaler,
13 pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
14 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant,
15 when in stock in containers correctly labeled with the name and address of the
16 supplier or producer.

17 "Nothing in this section authorizes a certified nurse-midwife, a nurse
18 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
19 stock of dangerous drugs and devices."

20 7. Section 118 of the Code states:

21 "(a) The withdrawal of an application for a license after it has been filed
22 with a board in the department shall not, unless the board has consented in writing to
23 such withdrawal, deprive the board of its authority to institute or continue a
24 proceeding against the applicant for the denial of the license upon any ground
25 provided by law or to enter an order denying the license upon any such ground.

26 "(b) The suspension, expiration, or forfeiture by operation of law of a
27 license issued by a board in the department, or its suspension, forfeiture, or
28 cancellation by order of the board or by order of a court of law, or its surrender
without the written consent of the board, shall not, during any period in which it may
be renewed, restored, reissued, or reinstated, deprive the board of its authority to
institute or continue a disciplinary proceeding against the licensee upon any ground
provided by law or to enter an order suspending or revoking the license or otherwise
taking disciplinary action against the licensee on any such ground.

"(c) As used in this section, 'board' includes an individual who is
authorized by any provision of this code to issue, suspend, or revoke a license, and
'license' includes 'certificate,' 'registration,' and 'permit.'"

23 DRUGS

24 8. Methamphetamine is a Schedule II controlled substance as designated by Health and
25 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions
26 Code section 4022. It is a stimulant drug.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Criminal Conviction)

3 9. Respondent is subject to discipline under Code section 4301 (f) and (l), in that
4 Respondent was convicted of a crime that is substantially related to the qualifications, functions,
5 and duties of a pharmacy technician, as follows: On or about April 3, 2012, in the case of *People*
6 *v. Yvonne Christian Serna* (Tulare County Superior Court, Case No. TCM258686), Respondent
7 was convicted on her nolo plea to a violation of Penal Code section 484 (a) (petty theft). The
8 circumstances were that respondent took items from a Walmart store which was valued at
9 approximately \$65.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Possession of a controlled substance for sale)

12 10. Respondent is subject to discipline under Code section 4301 (f) and (j), in that during
13 service of a warrant at Respondent's residence, a Tulare County Sheriff found a digital scale with
14 white residue, two plastic bags containing a crystal white substance, and a WD-40 can with a
15 false bottom containing package material and white residue. A presumptive test was performed
16 on the crystal white substance in the plastic bag which tested positive for methamphetamine. The
17 items were found in a bedroom.

18 PRAYER

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

21 1. Revoking or suspending Pharmacy Technician Registration Number TCH-122431,
22 issued to Yvonne Christian Serna.;

23 2. Ordering Yvonne Christian Serna to pay the Board of Pharmacy the reasonable costs
24 of the investigation and enforcement of this case, pursuant to Business and Professions Code
25 section 125.3;

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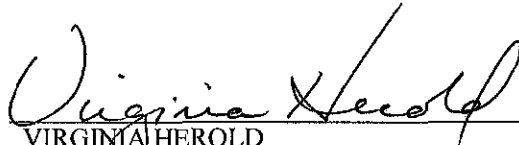
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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/14/14



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

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