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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 **FLORENTINO M. ESCORCIA**
13 PO BOX 729
14 Big Bear City, CA 92314
15 Pharmacy Technician Registration No. TCH
89588
16 Respondent.

Case No. 5844

A C C U S A T I O N

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 (Board), Department of Consumer Affairs.
22 2. On or about March 10, 2009, the Board issued Pharmacy Technician Registration
23 Number TCH 89588 to Florentino M. Escorcía (Respondent). Said registration was in full force
24 and effect at all times relevant to the charges brought herein and will expire on March 31, 2017,
25 unless renewed.

26 **JURISDICTION AND STATUTORY PROVISIONS**

- 27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All references are to the Business and Professions Code (Code) unless otherwise indicated.

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

2 “(a) Every license issued may be suspended or revoked.

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

5 (1) Suspending judgment.

6 (2) Placing him or her upon probation.

7 (3) Suspending his or her right to practice for a period not exceeding one
8 year.

9 (4) Revoking his or her license.

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

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

15 (1) Medical or psychiatric evaluation.

16 (2) Continuing medical or psychiatric treatment.

17 (3) Restriction of type or circumstances of practice.

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

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

20 (6) Random fluid testing for alcohol or drugs.

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

22 (d) The board may initiate disciplinary proceedings to revoke or suspend
23 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
24 probationary certificate to a regular certificate, free of conditions.

25 (e) The proceedings under this article shall be conducted in accordance
with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
26 Government Code, and the board shall have all the powers granted therein. The
action shall be final, except that the propriety of the action is subject to review by the
27 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.”

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1 5. Section 4301 of the Code provides, in pertinent part:

2 “The board shall take action against any holder of a license who is guilty
3 of unprofessional conduct or whose license has been procured by fraud or
4 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
5 not limited to, any of the following:

6 ...

7 (h) The administering to oneself, of any controlled substance, or the use
8 of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
9 dangerous or injurious to oneself, to a person holding a license under this chapter, or
10 to any other person or to the public, or to the extent that the use impairs the ability of
11 the person to conduct with safety to the public the practice authorized by the license.

12 ...

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

15 **FACTUAL BACKGROUND**

16 6. On June 16, 2015, California Highway Patrol officers were driving northbound on
17 SR-330 when they noticed a white Kia sedan, with its headlights on, parked in a turnout on the
18 northbound shoulder. Upon conducting a welfare check, the officers observed that the vehicle
19 now had its headlights off but the interior lights were illuminated. Officers observed that
20 Respondent (driver of the vehicle) displayed the objective signs and symptoms of drug
21 intoxication. Respondent admitted to driving the vehicle. Officers observed cigarette filters and
22 some small pieces of cotton (items that the officers identified as commonly used for filtering
23 heroin¹ into a syringe) on the drivers floor board. Respondent admitted that there were drugs in
24 the vehicle and produced a black case from underneath the drivers seat. The black case contained
25 four syringes, multiple plastic bags with black tar residue, a razor blade with black tar residue,
26 and multiple cotton swabs with black tar residue. Respondent told the officers that there was
27 heroin in the black case and that the black case was his. Respondent admitted to injecting
28 approximately 30 ccs of heroin into his upper right forearm approximately 6 hours before. He
admitted to injecting it in his car at a house in San Bernardino. Respondent admitted to shooting
up four times a day every day and that he started using heroin five months ago.

¹ Heroin is a schedule I controlled substance pursuant to Health and Safety Code section 11054 and is categorized as a dangerous drug pursuant to section 4022 of the Code.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Dangerous Use of Controlled Substances)**

3 7. Respondent is subject to disciplinary action under section 4301, subdivision (h) of
4 the Code in that Respondent administered or used a controlled substance and dangerous drug in a
5 manner dangerous or injurious to himself, others, and the public. The conduct is described in
6 more particularity in paragraph 6 above, inclusive, and hereby incorporated by reference.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct: Violation of State Statutes Regulating Controlled Substances)**

9 8. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
10 Code in that Respondent violated statutes of this state, or any other state, or of the United States
11 regulating controlled substances and dangerous drugs when he used and possessed heroin, a
12 controlled substance and dangerous drug. The conduct is described in more particularity in
13 paragraph 6 above, inclusive, and hereby incorporated by reference.

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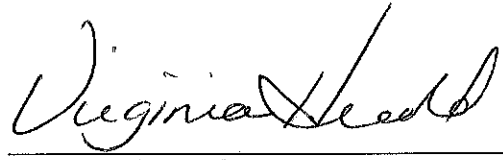
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 89588, issued to Florentino M. Escorcía;
2. Ordering Florentino M. Escorcía 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; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/16/16



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

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