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

12 In the Matter of the Accusation Against:
13 **SADIE MICHELLE WALKER**
2855 Pinecreek Drive, Apartment E425
14 Costa Mesa, CA 92649
15 **Pharmacy Technician Registration No. TCH**
132929
16
17 Respondent.

Case No. 5925

A C C U S A T I O N

18
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
23 Affairs.

24 2. On July 17, 2013, the Board issued Pharmacy Technician Registration Number
25 TCH 132929 to Sadie Michelle Walker (Respondent). The Pharmacy Technician Registration
26 was in full force and effect at all times relevant to the charges brought herein, and will expire on
27 May 31, 2017, 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 (Code) unless otherwise
4 indicated.

5 4. Code section 118, subdivision (b), provides that the suspension, expiration,
6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
7 disciplinary action during the period within which the license may be renewed, restored, reissued,
8 or reinstated.

9 5. Code section 4300, subdivision (a), provides that every license issued by the Board
10 may be suspended or revoked.

11 6. Code section 4300.1 states:

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

16 **STATUTORY PROVISIONS**

17 7. Code section 4022 states

18 "Dangerous drug" or "dangerous device" means any drug or device unsafe
19 for self-use in humans or animals, and includes the following:

20 (a) Any drug that bears the legend: "Caution: federal law prohibits
21 dispensing without prescription," "Rx only," or words of similar import.

22 (b) Any device that bears the statement: "Caution: federal law restricts
23 this device to sale by or on the order of a _____," "Rx only," or words of
24 similar import, the blank to be filled in with the designation of the practitioner
25 licensed to use or order use of the device.

26 (c) Any other drug or device that by federal or state law can be
27 lawfully dispensed only on prescription or furnished pursuant to Section 4006.

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8. Code 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 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.

...

(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.

...

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

....

9. Health & Safety Code section 11055 states, in pertinent part:

(a) The controlled substances listed in this section are included in Schedule II.

...

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Methamphetamine, its salts, isomers, and salts of its isomers.

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1 10. Health & Safety Code section 11550 states, in pertinent part:

2 (a) A person shall not use, or be under the influence of any controlled
3 substance that is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of
4 subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or
5 (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of
6 Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in
7 paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified
8 in Schedule III, IV, or V, except when administered by or under the direction of a
9 person licensed by the state to dispense, prescribe, or administer controlled
substances. It shall be the burden of the defense to show that it comes within the
exception. A person convicted of violating this subdivision is guilty of a
misdemeanor and shall be sentenced to serve a term of not more than one year in
a county jail. The court may also place a person convicted under this subdivision
on probation for a period not to exceed five years.

10 **COST RECOVERY**

11 11. Code section 125.3 provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations
13 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
15 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
16 may be included in a stipulated settlement.

17 **DRUGS**

18 12. Amphetamine is a Schedule II controlled substance as designated by Health and
19 Safety Code section 11055, subdivision (d)(1), and categorized as a dangerous drug under Code
20 section 4022.

21 13. Methamphetamine is a Schedule II controlled substance as designated by Health
22 and Safety Code section 11055, subdivision (d)(2), and categorized as a dangerous drug under
23 Code section 4022.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Self-Administration of Controlled Substances Without Prescription)**

26 14. Respondent has subjected her Pharmacy Technician Registration to discipline
27 under Code section 4301, subdivision (h) in that she self-administered the controlled substances,
28 amphetamine and methamphetamine, without prescription. The circumstances are as follows:

1 a. At or about 1:00 in the morning on January 15, 2016, officers from the
2 Costa Mesa Police Department responded to a noise complaint. When they arrived at the
3 apartment, Respondent appeared to be under the influence of drugs. The officers observed
4 Respondent's rapid speech, large pupils, absence of horizontal and vertical gaze nystagmuses,
5 and lack of convergence. Respondent admitted to having been up for the past three days using
6 methamphetamine. Respondent also admitted to smoking marijuana and taking approximately .5
7 to 1 gram of Xanax. Respondent failed the under the influence of a combination of central
8 nervous system (CNS) stimulants and CNS depressants examination and was arrested for being
9 under the influence of drugs. Respondent was transported to the jail for booking and processing.
10 On February 24, 2016, Respondent's toxicological examination report indicated positive for
11 amphetamine and methamphetamine.

12 b. On January 25, 2016, in a criminal proceeding entitled *The People of the*
13 *State of California vs. Sadie Michelle Walker*, in Orange County Superior Court, West Justice
14 Center, Case Number 16WM01136, Respondent was charged with violation of HSC section
15 11550, subdivision (a), use and under the influence of controlled substance methamphetamine, a
16 misdemeanor. On April 21, 2016, Respondent completed the Defense Drug Dismissal Program.
17 On June 20, 2016, the motion of the People for terminal disposition was granted, the charge was
18 dismissed, and the case closed.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Violation of Pharmacy Law Regulating Controlled Substances and Dangerous Drugs)**

21 15. Respondent has subjected her Pharmacy Technician Registration to discipline
22 under Code section 4301, subdivisions (j) and (o) in that Respondent violated Health and Safety
23 Code section 11550, subdivision (a), a pharmacy law of the State of California regulating
24 controlled substances and dangerous drugs, as detailed in paragraph 14, above, and incorporated
25 herein by this reference.

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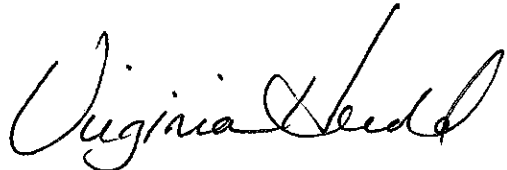
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PRAYER

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 132929, issued to Sadie Michelle Walker;
2. Ordering Sadie Michelle Walker 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: 10/14/16



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

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