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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 **KATELYN MARIE ANTHENIEN**
4712 Azevedo Road
13 Gustine, CA 95322
14 **Pharmacy Technician No. TCH 123353**
15 Respondent.

Case No. 6029

ACCUSATION

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

21 2. On or about April 26, 2012, the Board of Pharmacy issued Pharmacy Technician
22 Number TCH 123353 to Katelyn Marie Anthenien ("Respondent"). The license was in full force
23 and effect at all times relevant to the charges brought herein and will expire on
24 September 30, 2017, unless renewed.

25 **JURISDICTION**

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

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1 STATUTORY PROVISIONS

2 4. Code section 4300 states, in pertinent part:

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

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

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

8 (3) Suspending his or her right to practice for a period not exceeding one 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
11 its discretion may deem proper.

12 5. Code section 4300.1 of the Code states:

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

16 6. Code section 4301 of the Code states, in pertinent part:

17 The board shall take action against any holder of a license who is guilty of
18 unprofessional conduct or whose license has been issued by mistake. Unprofessional
19 conduct shall include, but is not limited to, any of the following:

19 ...

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

21 ...

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

25 ...

26 7. Code section 4060 of the Code states, in pertinent part:

27 No person shall possess any controlled substance, except that furnished to a
28 person upon the prescription of a physician, dentist, podiatrist, optometrist,

1 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
2 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
3 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
4 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
5 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph
6 (A) of paragraph (5) of, subdivision (a) of Section 4052. . . .

8. Health and Safety Code section 11350, subdivision (a), states:

9 Except as otherwise provided in this division, every person who possesses (1)
10 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
11 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
12 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
13 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
14 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the
15 written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
16 practice in this state, shall be punished by imprisonment pursuant to subdivision (h)
17 of Section 1170 of the Penal Code.

9. Health and Safety Code section 11377, subdivision (a), states:

10 Except as authorized by law and as otherwise provided in subdivision (b) or
11 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
12 Division 2 of the Business and Professions Code, every person who possesses any
13 controlled substance which is (1) classified in Schedule III, IV, or V, and which is not
14 a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs
15 (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of
16 subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision
17 (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055,
18 unless upon the prescription of a physician, dentist, podiatrist, or veterinarian,
19 licensed to practice in this state, shall be punished by imprisonment in a county jail
20 for a period of not more than one year or pursuant to subdivision (h) of Section 1170
21 of the Penal Code.

22 COST RECOVERY

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

27 CONTROLLED SUBSTANCES

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

12. Heroin is a Schedule I controlled substance as designated by Health and Safety Code
section 11054(c)(11).

1 **BACKGROUND**

2 13. On or about August 15, 2016, Modesto Police Department officers J.W. and Y.O.
3 initiated a traffic stop on a vehicle that did not have an illuminated rear license plate. Respondent
4 was a passenger in the backseat and was observed reaching into her waistband with the
5 appearance of discarding something on the vehicle floorboard. The officers had the occupants
6 step out of the vehicle for further investigation. Officer Y.O. searched the back of the vehicle
7 where he found heroin next to the seat where Respondent was sitting. Respondent was moved to
8 the police vehicle by officer J.W. for additional questioning. Respondent informed officer J.W.
9 that she had more narcotics on her and voluntarily surrendered a "piece" of methamphetamine and
10 a glass pipe. Respondent admitted the heroin and methamphetamine belonged to her. At the
11 Modesto Police Department, the substances obtained at the scene were weighed and tested. The
12 white crystal-like substance weighed 27.21 grams gross and tested positive for methamphetamine.
13 The black tar substance weighed 23.92 grams gross and tested positive for heroin.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Violations of State Laws Regulating Controlled Substances)**

16 14. Respondent is subject to disciplinary action pursuant to Code section 4301,
17 subdivision (j), for unprofessional conduct, in that on or about August 15, 2016, Respondent
18 possessed the controlled substances methamphetamine and heroin without a valid or lawful
19 prescription for the substances, in violation of Code section 4060 and/or Health and Safety Code
20 sections 11350, subdivision (a) and 11377, subdivision (a), as more particularly set forth above in
21 paragraph 13.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Violations of the Pharmacy Law)**

24 15. Respondent is subject to disciplinary action pursuant to Code section 4301,
25 subdivision (o), for unprofessional conduct, in that on or about August 15, 2016, Respondent
26 violated or attempted to violate, directly or indirectly, a provision or term of the Pharmacy Law
27 (Bus. & Prof. Code § 4300, et seq.), specifically, Code section 4060.

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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 issue a decision:

1. Revoking or suspending Pharmacy Technician Number TCH 123353, issued to Katelyn Marie Anthenien;
2. Ordering Katelyn Marie Anthenien to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 3/18/17

Virginia Herold

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

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