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

10 In the Matter of the Accusation Against:

Case No. 3220

OAH No. L-2009061411

11 **EARL GLEN WOOD**
12 **736 E. San Francisco Avenue**
13 **Pomona, CA 91767**
14 **Pharmacy Technician License No. TCH**
15 **6721**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

16
17 FINDINGS OF FACT

18 1. On or about June 19, 2009, Complainant Virginia Herold, in her official capacity as
19 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed
20 Accusation No. 3220 against Earl Glen Wood (Respondent) before the Board.

21 2. On or about April 13, 1993, the Board issued Pharmacy Technician License No. TCH
22 6721 to Respondent. The Pharmacy Technician License was in full force and effect at all times
23 relevant to the charges brought herein and will expire on April 30, 2011, unless renewed.

24 3. On or about June 22, 2009, Carolina Lopez-Castillo, an employee of the Department
25 of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3220, Statement
26 to Respondent, Notice of Defense, Request for Discovery, and a copy of Government Code
27 sections 11507.5, 11507.6 and 11507.7 to Respondent's address of record with the Board, which
28 was and is: 736 E. San Francisco Avenue, Pomona, CA 91767.

1 3. The agency has jurisdiction to adjudicate this case by default.

2 4. The Board is authorized to revoke Respondent's Pharmacy Technician License based
3 upon the following violations alleged in the First Amended Accusation:

4 a. Business and Professions Code sections 490 and 4301, subdivision (l), First Cause for
5 Discipline for Convictions of Substantially Related Crimes;

6 b. Business and Professions Code section 4309, subdivision (j), Second Cause for
7 Discipline for Unlawful Possession of Controlled Substances; and

8 c. Business and Professions Code section 4301, subdivision (h), Third Cause for
9 Discipline for Dangerous Use of Controlled Substances.

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ORDER

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IT IS SO ORDERED that Pharmacy Technician License No. TCH 6721, heretofore issued
13 to Respondent Earl Glen Wood, is revoked.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
written motion requesting that the Decision be vacated and stating the grounds relied on within
16 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
17 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.


18

This Decision shall become effective on January 29, 2010.

19

It is so ORDERED December 30, 2009.

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21

KENNETH H. SCHELL, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

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23

24

60489784.DOC
DOJ docket number: LA2008602069

25

Attachment:

26

Exhibit A: First Amended Accusation No. 3220

27

28

Exhibit A
First Amended Accusation No. 3220

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of the State of California
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7 Attorneys for Complainant

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. 3220

12 EARL GLEN WOOD
13 736 E. San Francisco Avenue
Pomona, CA 91767

FIRST AMENDED ACCUSATION

14 Pharmacy Technician Registration No. TCH
15 6721

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia K. Herold (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Pharmacy.

21 2. On or about April 13, 1993, the Board of Pharmacy (Board), Department
22 of Consumer Affairs, issued Pharmacy Technician Registration No. TCH 6721 to Earl Glen
23 Wood (Respondent). The Pharmacy Technician Registration was in full force and effect at all
24 times relevant to the charges brought herein and will expire on April 30, 2011, unless renewed.

25 **JURISDICTION**

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

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

6

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

9

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

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1 REGULATORY PROVISIONS

2 10. California Code of Regulations, title 16, section 1770 states:

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

9 COST RECOVERY

10 11. Section 125.3, subdivision (d), states:

11 "The administrative law judge shall make a proposed finding of the amount of
12 reasonable costs of investigation and prosecution of the case when requested pursuant to
13 subdivision (a). The finding of the administrative law judge with regard to costs shall not be
14 reviewable by the board to increase the cost award. The board may reduce or eliminate the cost
15 award, or remand to the administrative law judge if the proposed decision fails to make a finding
16 on costs requested pursuant to subdivision (a)."

17 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

18 12. Amphetamine is a Scheduled II controlled substance as defined in Health
19 and Safety Code section 11055, subdivision (d)(1) and a dangerous drug within the meaning of
20 section 4022.

21 13. Marijuana is a hallucinogenic Schedule I controlled substance as defined
22 in Health and Safety Code section 11054, subdivision (d)(13) and a dangerous drug within the
23 meaning of section 4022.

24 14. Methamphetamine is a Schedule II controlled substance as defined by
25 Health and Safety Code section 11055, subdivision (d)(2), and a dangerous drug within the
26 meaning of section 4022.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Convictions of Substantially Related Crime)

3 15. Respondent is subject to disciplinary action under sections 490 and 4301,
4 subdivision (l), on the ground of unprofessional conduct, in conjunction with California Code of
5 Regulations, title 16, section 1770, in that Respondent was convicted of crimes substantially
6 related to the qualifications, functions or duties of a licensee which to a substantial degree
7 evidences his present or potential unfitness to perform the functions authorized by his license in a
8 manner consistent with the public health, safety, or welfare. The circumstances of the
9 convictions are as follows:

10 a. On or about July 5, 2007, after pleading guilty, Respondent was convicted
11 of one misdemeanor count of violating Health and Safety Code section 11550, subdivision (a)
12 (use/under the influence of a controlled substance, to wit, methamphetamine) in the criminal
13 proceeding entitled *People v. Wood* (Super. Ct. San Bernardino County, 2007, No.
14 MWV701803).

15 b. The circumstances underlying the conviction are that on or about
16 January 31, 2007, after an officer of the San Bernardino County Sheriff's Department initiated a
17 traffic stop on Respondent, Respondent was found to be under the influence of a controlled
18 substance, and to be in possession of 0.67 grams of methamphetamine. Respondent admitted to
19 law enforcement that he snorted a small amount of the methamphetamine and it affected him.

20 c. On or about June 30, 2009, after pleading guilty, Respondent was
21 convicted of one misdemeanor count of violating Health and Safety Code section 11377,
22 subdivision (a) (possession of a controlled substance, to wit, methamphetamine) in the criminal
23 proceeding entitled *People v. Wood* (Super. Ct. San Bernardino County, 2009, No. FWV901515).

24 d. The circumstances underlying the conviction are that on or about April 8,
25 2009, after an officer of the San Bernardino County Sheriff's Department initiated a traffic stop
26 on Respondent, Respondent was found to be under the influence of a controlled substance, and to
27 be in possession of methamphetamine.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Unlawful Possession of Controlled Substance)

3 16. Respondent is subject to disciplinary action under section 4301,
4 subdivision (j), on the ground of unprofessional conduct, for violating section 4060, in that
5 Respondent committed acts of professional misconduct when he possessed methamphetamine, a
6 controlled substance and dangerous drug, without a valid prescription, as follows:

7 a. On or about April 8, 2009, Respondent possessed a plastic bag containing
8 methamphetamine.

9 b. On or about January 31, 2007, Respondent possessed 0.67 grams of
10 methamphetamine; and

11 c. On or about August 2, 2005, Montclair police observed Respondent
12 displaying symptoms of being under the influence of a stimulant. He was stopped and found to
13 be in possession of 0.08 grams of methamphetamine

14 THIRD CAUSE FOR DISCIPLINE

15 (Dangerous Use of Controlled Substances)

16 17. Respondent is subject to disciplinary action under section 4301,
17 subdivision (h), on the ground of unprofessional conduct, in that on or about February 26 and 27,
18 1999, August 2, 2005, January 31, 2007, and April 8, 2009, Respondent committed acts of
19 professional misconduct when he administered to himself or used controlled substances and/or
20 dangerous drugs, to the extent or in a manner to be dangerous or injurious to himself or to any
21 other person or to the public, and his use impairs his ability to conduct with safety to the public
22 the practice authorized by his license. The circumstances are as follows:

23 a. On or about February 26, 1999, Respondent snorted a line of a controlled
24 substance and smoked marijuana.

25 b. On or about February 27, 1999, Respondent, while driving his vehicle, was
26 under the influence of a controlled substance and in possession of methamphetamine.

27 c. On or about August 2, 2005, Respondent placed methamphetamine in his
28 cereal and ate it.

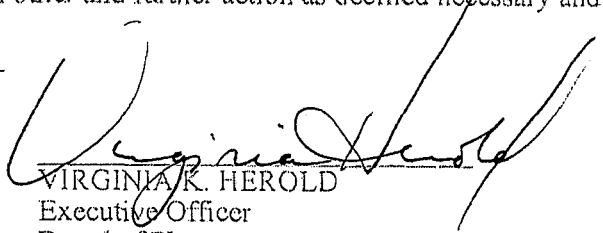
- 1 d. On or about August 2, 2005, Respondent, while driving his vehicle, was
- 2 under the influence of a controlled substance and in possession of methamphetamine.
- 3 c. On or about August 2, 2005, Respondent's urine tested positive for
- 4 amphetamines.
- 5 f. On or about January 31, 2007, Respondent snorted a small amount of
- 6 methamphetamine.
- 7 g. On or about January 31, 2007, Respondent, while driving his vehicle, was
- 8 under the influence of a controlled substance and in possession of methamphetamine.
- 9 h. On or about January 31, 2007, Respondent's blood tested positive for
- 10 amphetamines.
- 11 i. On or about April 8, 2009, after being stopped for a vehicular infraction
- 12 and traffic violation, Respondent admitted to the arresting police officer that he snorted a line of
- 13 methamphetamine on or about April 7, 2009.

PRAYER

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

- 17 1. Revoking or suspending Pharmacy Technician Registration No. TCH
- 18 6721, issued to Respondent;
- 19 2. Ordering Respondent to pay the Board the reasonable costs of the
- 20 investigation and enforcement of this case, pursuant to section 125.3; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 7/14/09



VIRGINIA K. HEROLD
Executive Officer
Board of Pharmacy
State of California

Complainant

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