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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 4132

KARRIE EWING
8470 Petunia Way
Buena Park, CA 90620

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Pharmacy Technician Registration No. TCH
26413**

Respondent.

FINDINGS OF FACT

1. On or about September 23, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4132 against Karrie Ewing (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 15, 1998, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 26413 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4132 and expired on October 31, 2011. This lapse in licensure, however, pursuant to Business and Professions Code section 118(b) does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

1 3. On or about October 5, 2011, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 4132, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board, which was and is:

6 8470 Petunia Way
7 Buena Park, CA 90620.

8 4. Service of the Accusation was effective as a matter of law under the provisions of
9 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
10 124.

11 5. The aforementioned documents were not returned by the U.S. Postal Service.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4132.

20 8. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
23 or upon other evidence and affidavits may be used as evidence without any notice to
24 respondent.

25 9. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 4132, finds that
the charges and allegations in Accusation No. 4132, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$2,712.50 as of October 26, 2011.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Karrie Ewing has subjected her
6 Pharmacy Technician Registration No. TCH 26413 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
9 Registration based upon the following violations alleged in the Accusation which are supported
10 by the evidence contained in the Default Decision Evidence Packet in this case:

11 a. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
12 on or about October 26, 2010, June 1, 2011 and July 10, 2011 she used a controlled substance and
13 dangerous drug, methamphetamine.

14 b. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
15 on or about October 26, 2010, January 19, 2011, June 1, 2011 and July 10, 2011, Respondent
16 violated the California Uniform Controlled Substances Act (Health and Safety Code 11000, et
17 seq.) by possessing and/or furnishing a controlled substance and dangerous drug,
18 methamphetamine and drug paraphernalia.

19 c. Respondent is subject to disciplinary action under section 4301(o) of the Code for
20 violation of the Pharmacy Act in that on or about October 26, 2010, June 1, 2011 and July 10,
21 2011, Respondent furnished to herself and possessed a controlled substance and dangerous drug,
22 methamphetamine, in violation of Code sections 4059 and 4060 and on January 19, 2011,
23 Respondent possessed drug paraphernalia and a controlled substance and dangerous drug,
24 methamphetamine.

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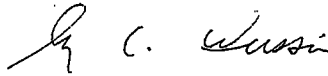
ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 26413, heretofore issued to Respondent Karrie Ewing, is revoked.

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 seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 9, 2012.

It is so ORDERED February 8, 2012.



STANLEY C. WEISSER, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

80564625.DOC
DOJ Matter ID:SD2011800884

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against: Case No. 4132
12
13 **KARRIE EWING**
8470 Petunia Way
14 Buena Park, CA 90620
15 **Pharmacy Technician Registration No. TCH**
26413
16
17 Respondent.

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 capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
23 2. On or about July 15, 1998, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 26413 to Karrie Ewing (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on October 31, 2011, unless renewed.
27
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1 **JURISDICTION**

2 3. 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 4. Section 4300(a) of the Code states that “[e]very license issued may be suspended or
6 revoked.”

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

11 **STATUTORY AND REGULATORY PROVISIONS**

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to evaluate
14 the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation
18 furnished by the applicant or licensee.

19 7. Section 4059 of the Code provides, in pertinent part, that a person may not furnish
20 any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
21 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
22 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
23 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

24 8. Section 4060 of the Code states:

25 No person shall possess any controlled substance, except that furnished to a
26 person upon the prescription of a physician, dentist, podiatrist, optometrist,
27 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
28 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
shall not apply to the possession of any controlled substance by a manufacturer,

1 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
2 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
3 physician assistant, when in stock in containers correctly labeled with the name and
4 address of the supplier or producer.

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

8 9. Section 4301 of the Code states:

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

13
14 (h) The administering to oneself, of any controlled substance, or the use of any
15 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
16 dangerous or injurious to oneself, to a person holding a license under this chapter, or
17 to any other person or to the public, or to the extent that the use impairs the ability of
18 the person to conduct with safety to the public the practice authorized by the license.

19
20 (j) The violation of any of the statutes of this state, or any other state, or of the
21 United States regulating controlled substances and dangerous drugs.

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

28 COST RECOVERY

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

1 DRUG

2 11. Methamphetamine is a Schedule II controlled substance as designated by Health and
3 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions
4 Code section 4022.

5 FACTUAL ALLEGATIONS

6 12. On or about October 26, 2010, Garden Grove Police Department's Career Criminal
7 Apprehension Team conducted a surveillance of an apartment in the area of Knott St. and Orange,
8 Anaheim, California. Team members observed Respondent's vehicle leave the apartment under
9 surveillance and return to it. Once Respondent's vehicle returned, they detained Respondent. An
10 officer searched her vehicle and located her cosmetic bag containing a pillbox in her vehicle.
11 Inside the pillbox was a small white baggie with approximately .2 grams of a white crystalline
12 substance which later tested positive for methamphetamine. Respondent admitted to one of the
13 officers that she ingests methamphetamine.

14 13. On or about January 19, 2011, detectives with the Buena Park Police Department
15 Vice & Narcotics Unit conducted a surveillance of Respondent's residence located in Buena Park,
16 California and obtained a warrant to search the residence and Respondent. A detective searched
17 Respondent's bedroom and located a methamphetamine smoking pipe underneath her bed, a
18 digital scale on top of her bed and numerous empty small ziplock baggies in her closet. One gram
19 of a crystalline substance resembling methamphetamine was found inside Respondent's garage
20 and tested positive for methamphetamine after a presumptive test.

21 14. On or about June 1, 2011, officers from the Buena Park Police Department initiated a
22 traffic enforcement stop of the vehicle driven by Respondent on Camellia Drive, north of La
23 Palma Avenue in Buena Park, California. The officers conducted a search of that vehicle and
24 found approximately .1 gram of a white crystalline substance which tested positive for
25 methamphetamine after a presumptive test. Once of the officers observed that Respondent
26 displayed the objective physical signs and clinical indicators consistent with the use of a central
27 nervous system stimulant such as methamphetamine. Her pulse rate was elevated to
28 approximately 128 beats per minute. Additionally, she displayed eyelid tremors, her skin was

1 warm to the touch and her muscle tone was rigid. Respondent's pupils showed a slow reaction to
2 the presence of light and her right nostril appeared red, swollen and irritated. The officers
3 arrested Respondent and transported her to the Buena Park Police Department. Her body was
4 searched and a baggie containing a white crystalline substance resembling methamphetamine and
5 a clear plastic bindle burned at the end with a white crystalline substance with a combined total
6 weight of 3.6 grams was found in Respondent's underwear. The substance found in Respondent's
7 underwear showed a positive reaction for methamphetamine. At the station, Respondent
8 underwent standardized field sobriety tests and an officer determined that she was under the
9 influence of a central nervous system stimulant consistent with methamphetamine. Her blood
10 also tested positive for the presence of methamphetamine.

11 15. On or about July 10, 2011, an officer from the Garden Grove Police Department
12 noticed two heavily tattooed males with their shirts off and their arms wrapped around each other
13 in front of a bank located on Brookhurst Street in Garden Grove, California. The police officer
14 stopped and questioned these two males who were accompanied by Respondent. Since one of the
15 males was a parolee and acting suspiciously, the officer searched their vehicle. The officer
16 located a gun and a glass methamphetamine pipe which was warm to the touch and contained a
17 white powdery residue and burnt markings in their vehicle. The officer then observed that
18 Respondent displayed the objective symptoms of being under the influence of methamphetamine,
19 including possessing dilated, bloodshot, red and watery eyes and appearing anxious. Respondent
20 admitted to the police officer that she had used methamphetamine and had hidden a white crystal
21 like substance in a cavity in her body. She subsequently removed the white crystalline substance
22 from her body and gave it to an officer. The white crystalline substance found in Respondent's
23 body cavity later tested positive for methamphetamine. Her blood also tested positive for the
24 presence of methamphetamine.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct-Use of a Controlled Substance)**

3 16. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
4 on or about October 26, 2010, June 1, 2011 and July 10, 2011 she used a controlled substance and
5 dangerous drug, methamphetamine as is more fully described in paragraphs 12, 14 and 15 above.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct-Violating Laws Regulating Controlled Substances)**

8 17. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
9 on or about October 26, 2010, January 19, 2011, June 1, 2011 and July 10, 2011, Respondent
10 violated the California Uniform Controlled Substances Act (Health and Safety Code 11000, et
11 seq.) by possessing and/or furnishing a controlled substance and dangerous drug,
12 methamphetamine and drug paraphernalia as is more fully described in paragraphs 12-15, above.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct-Violations of the Chapter)**

15 18. Respondent is subject to disciplinary action under section 4301(o) of the Code for
16 violation of the Pharmacy Act in that on or about October 26, 2010, June 1, 2011 and July 10,
17 2011, Respondent furnished to herself and possessed a controlled substance and dangerous drug,
18 methamphetamine, in violation of Code sections 4059 and 4060 and on January 19, 2011,
19 Respondent possessed drug paraphernalia and a controlled substance and dangerous drug,
20 methamphetamine, as is more fully described in paragraphs 12-15, above.

21 **PRAYER**

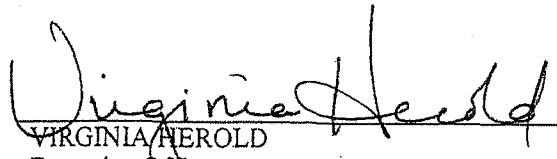
22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Pharmacy issue a decision:

- 24 1. Revoking or suspending Pharmacy Technician Registration Number TCH 26413,
25 issued to Karrie Ewing;
- 26 2. Ordering Karrie Ewing to pay the Board of Pharmacy the reasonable costs of the
27 investigation and enforcement of this case, pursuant to Business and Professions Code section
28 125.3;

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

DATED: 9/23/11



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

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