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

12 In the Matter of the Accusation Against:

13 **CRISTINA SERRATO**
14 **1642 W. Shields Ave.**
15 **Fresno, CA 93705**

16 **Pharmacy Technician Registration No. TCH**
17 **92335**

18 Respondent.
19

Case No. 4455

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

20
21 **FINDINGS OF FACT**

22 1. On or about June 10, 2013, Complainant Virginia K. Herold, in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
24 Accusation No. 4455(Accusation attached as Exhibit A) against Cristina Serrato (Respondent)
25 before the Board of Pharmacy (Board).

26 2. On or about July 14, 2009, the Board issued Pharmacy Technician Registration No.
27 TCH 92335 to Respondent. The Pharmacy Technician Registration was in full force and effect at
28 all times relevant to the charges brought in Accusation No. 4455 and will expired on March 31,

1 2013 and has been cancelled. Expiration and/or cancellation of the Registration does not deprive
2 the Board of its authority to institute or continue this disciplinary proceeding pursuant to Business
3 and Professions Code section 118(b).

4 3. On or about July 15, 2013, Respondent was served by Certified and First Class Mail
5 copies of the Accusation No. 4455, Statement to Respondent, Notice of Defense, Request for
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
7 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
8 is required to be reported and maintained with the Board. Respondent's address of record was
9 and is:

10 1642 W. Shields Ave.
11 Fresno, CA 93705.

12 4. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
14 124. The Proof of Service by mail is attached to Exhibit A and Exhibit 1 to the Investigatory and
15 Evidence Packet.

16 5. Government Code section 11506 states, in pertinent part:

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

22 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
23 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4455.

24 7. California Government Code section 11520 states, in pertinent part:

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

8. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board's offices regarding the allegations contained in Accusation No. 4455, finds that
3 the charges and allegations in Accusation No. 4455, are separately and severally, found to be true
4 and correct by clear and convincing evidence.

5 9. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$1,870.00 as of August 26, 2013.

8 **DETERMINATION OF ISSUES**

9 1. Based on the foregoing findings of fact, Respondent Cristina Serrato has subjected
10 her Pharmacy Technician Registration No. TCH 92335 to discipline.

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

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

15 a. Business and Professions Code section 4301(l), conviction of crimes substantially
16 related to the duties, responsibilities and qualifications of a Pharmacy Technician for the
17 following convictions:

18 1. January 4, 2012 for violation of Vehicle Code section 14601.1(a) knowingly driving
19 with a suspended driver's license, a misdemeanor.

20 2. June 8, 2012 for violation of Health and Safety Code section 11377(a) unlawful
21 possession of methamphetamine, a felony.

22 3. October 17, 2012 for violation of Penal Code section 245(a)(4), burglary of an
23 inhabited dwelling, a felony.

24 b. Business and Professions Code sections 480 and 4301(p) engaging in conduct that
25 would warrant denial of registration: burglary and participating in an assault by means likely to
26 produce great bodily harm.

27 c. Business and Professions Code section 4301(f) conviction of a crime involving
28 Federal and State laws pertaining to controlled substances: possession of methamphetamine.

1 d. Business and Professions Code section 4301(f) convicted of a crime and participated
2 in conduct involving moral turpitude.

3 **ORDER**

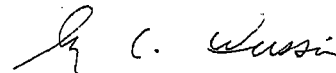
4 **IT IS ORDERED** that Pharmacy Technician Registration No. TCH 92335, heretofore
5 issued to Respondent Cristina Serrato, is **revoked**.

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

10 This Decision shall become effective on November 22, 2013.

11 It is so ORDERED ON October 23, 2013.

12 BOARD OF PHARMACY
13 DEPARTMENT OF CONSUMER AFFAIRS
14 STATE OF CALIFORNIA

15 

16 By _____
17 STAN C. WEISSER
18 Board President

19
20 11160700.DOC
21 DOJ Matter ID:SA2012108295

22 Attachment:
23 Exhibit A: Accusation
24
25
26
27
28

Exhibit A

Accusation

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

12 In the Matter of the Accusation Against:

Case No. 4455

13 **CRISTINA SERRATO**
14 **1642 W. Shields Ave**
Fresno, CA 93705

ACCUSATION

15
16 **Pharmacy Technician License No.**
TCH92335

17 Respondent.
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 (Board), Department of Consumer Affairs
23 (Department).

24 2. On or about July 14, 2009, the Board of Pharmacy issued Pharmacy Technician
25 License Number TCH 92335 to Christina Serrato (Respondent). The Pharmacy Technician
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on March 31, 2013, unless renewed.

28 ///

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 unless otherwise indicated.

4 STATUTORY AND REGULATORY PROVISIONS

5 4. Code Section 480 provides:

6 (a) A board may deny a license regulated by this code on the
7 grounds that the applicant has one of the following:

8 (1) Been convicted of a crime. A conviction within the meaning of
9 this section means a plea or verdict of guilty or a conviction
10 following a plea of nolo contendere. Any action that a board is
11 permitted to take following the establishment of a conviction may be
12 taken when the time for appeal has elapsed, or the judgment of
13 conviction has been affirmed on appeal, or when an order granting
14 probation is made suspending the imposition of sentence, irrespective
15 of a subsequent order under the provisions of Section 1203.4 of the
16 Penal Code.

17 (2) Done any act involving dishonesty, fraud, or deceit with the
18 intent to substantially benefit himself or herself or another, or
19 substantially injure another.

20 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
21 revoke a license on the ground that the licensee has been convicted of a crime substantially
22 related to the qualifications, functions, or duties of the business or profession for which the
23 license was issued. A conviction within the meaning of this section means a plea or verdict of
24 guilty or a conviction following a plea of nolo contendere.

25 6. Section 492 of the Code states:

26 Notwithstanding any other provision of law, successful completion of any diversion
27 program under the Penal Code, or successful completion of an alcohol and drug problem
28 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
division, from taking disciplinary action against a licensee or from denying a license for

1 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
2 record pertaining to an arrest.

3 7. Section 493 of the Code states:

4 Notwithstanding any other provision of law, in a proceeding conducted by a board within
5 the department pursuant to law to deny an application for a license or to suspend or revoke a
6 license or otherwise take disciplinary action against a person who holds a license, upon the
7 ground that the applicant or the licensee has been convicted of a crime substantially related to the
8 qualifications, functions, and duties of the licensee in question, the record of conviction of the
9 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
10 and the board may inquire into the circumstances surrounding the commission of the crime in
11 order to fix the degree of discipline or to determine if the conviction is substantially related to the
12 qualifications, functions, and duties of the licensee in question.

13 8. Section 4300 provides in relevant part:

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

15 9. Section 4301 provides in relevant part:

16 The board shall take action against any holder of a license who is guilty of
17 unprofessional conduct. Unprofessional conduct shall include, but not be limited to, any of
18 the following:

19 (f) The commission of any act involving moral turpitude,
20 dishonesty, fraud, deceit, or corruption, whether the act is
21 committed in the course of relations as a licensee or otherwise, and
22 whether the act is a felony or misdemeanor or not.

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

26 (k) The conviction of more than one misdemeanor or any felony
27 involving the use, consumption, or self-administration of any
28 dangerous drug or alcoholic beverage, or any combination of those

1 substances.

2 (l) The conviction of a crime substantially related to the
3 qualifications, functions, and duties of a licensee under this
4 chapter.

5 (p) Actions or conduct that would have warranted denial of a
6 license.

7 **COST RECOVERY**

8 10. Section 125.3 of the Code provides, in pertinent part, that the
9 Board/Registrar/Director may request the administrative law judge to direct a licensee found to
10 have committed a violation or violations of the licensing act to pay a sum not to exceed the
11 reasonable costs of the investigation and enforcement of the case.

12 **FIRST CAUSE FOR DISCIPLINE**

13 (Unprofessional Conduct- Conviction of Crime)
14

15 11. Respondent has subjected her license to disciplinary action pursuant to sections 490
16 and 4301(l) on grounds that Respondent has been convicted of crimes substantially related to the
17 duties, responsibilities and qualifications of a pharmacy technician . The circumstances are as
18 follows:

19 a. On or about January 4, 2012 Respondent was convicted by her plea of guilty to
20 the misdemeanor charge of violating Vehicle Code section 14601.1(a), driving with a suspended
21 driver's license, in Madera County Superior Court case captioned People of the State of
22 California v Cristina Serrato, Case No. CCR036797. The circumstances of the case are that on
23 July 7, 2011 Respondent was operating a motor vehicle in Madera County when her driving
24 privilege was suspended and revoked and that Respondent had knowledge of the license
25 suspension and revocation when operating the vehicle.

26 b. On or about June 8, 2012 Respondent was convicted by her plea of guilty to a
27 felony charge of violating Health and Safety Code section 11377(a), unlawful possession of
28 methamphetamine in Madera County Superior Court case captioned People of the State of

1 California v Cristina Serrato, case no. MCR043069. The circumstances of the crime are that
2 Respondent was an occupant of a vehicle reported as stolen. During the course of a police stop,
3 Respondent became argumentative with investigating officers who proceeded to place
4 Respondent in a police vehicle. During a pat down search, the arresting officer felt a small rock
5 object in Respondent's front right coin pocket. The object was determined to be
6 methamphetamine.

7 c. On or about October 17, 2012, Respondent was convicted by her plea of guilty
8 to a felony charge of violating Penal Code section 245(a)(4), Burglary, in Madera County
9 Superior Court Case No. MCR044049 in the case captioned People of the State of California v
10 Cristina Serrato. The circumstances are that Respondent entered an inhabited dwelling with
11 others for the purpose of assisting or otherwise participating in an assault on a resident of the
12 dwelling. The resident of the dwelling suffered serious physical injuries necessitating medical
13 treatment. During these events, personal property of the resident was taken.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct-Denial Of License)

16
17 12. Respondent's license is subject to discipline pursuant to Code section 480 and
18 4301(p) on grounds that Respondent has engaged in conduct that would warrant denial of a
19 pharmacy technician license. The circumstances are as follows:

20 13. Paragraph 11 is incorporated herein as though set forth at length. On or about June
21 12, 2012 Respondent engaged in felony conduct that violated Penal Code section 459 and
22 245(a)(4) by committing assault by means likely to produce great bodily injury. The
23 circumstances are that Respondent entered an inhabited dwelling with others for the purpose of
24 assisting or otherwise participatin g in an assault on a resident of the dwelling. The resident of
25 the dwelling suffered serious physical injuries necessitating medical treatment. During these
26 events, personal property of the resident was taken.

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

DATED: 6/10/13 Virginia Herold

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

SA2012108295
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