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

In the Matter of the Accusation Against:
ASHLEY KATE MAERTZ-RESTUCHI
2873 Arcade Way, #207
Redding, CA 96002
Pharmacy Technician Registration No.
121680

Respondent.

Case No. 4943

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 3, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4943 against Ashley Kate Maertz-Restuchi (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about March 27, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. 121680 to Respondent. The Pharmacy Technician Registration expired on July 31, 2013, and has not been renewed.
3. On or about April 27, 2015, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4943, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
2 is required to be reported and maintained with the Board. Respondent's address of record was
3 and is:

4 2873 Arcade Way, #207
5 Redding, CA 96002.

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

9 5. On or about May 26, 2015, the aforementioned documents were returned by the U.S.
10 Postal Service marked "No Forwarding Address." The address on the documents was the same as
11 the address on file with the Board. Respondent failed to maintain an updated address with the
12 Board and the Board has made attempts to serve the Respondent at the address on file.
13 Respondent has not made herself available for service and therefore, has not availed herself of her
14 right to file a notice of defense and appear at hearing.

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

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

21 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
22 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4943.

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

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

28 9. 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
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the Board's offices regarding the allegations contained in Accusation No. 4943, finds that
2 the charges and allegations in Accusation No. 4943, are separately and severally, found to be true
3 and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
6 and Enforcement is \$2,950.00 as of November 20, 2015.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Ashley Kate Maertz-Restuchi
9 has subjected her Pharmacy Technician Registration No. 121680 to discipline.

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

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

14 a. Business and Professions Code section 4301, subdivision (l) – criminal convictions;

15 b. Business and Professions Code section 4301, subdivision (f) – acts involving moral
16 turpitude, dishonesty, fraud deceit or corruption;

17 c. Business and Professions Code section 4301, subdivision (h) – use of controlled
18 substances to the extent or in a manner dangerous or injurious to herself, others and the public.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. 121680, heretofore issued to Respondent Ashley Kate Maertz-Restuchi, 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 February 8, 2016.

It is so ORDERED January 8, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
Amy Gutierrez, Pharm.D.
Board President

12050088.DOC
DOJ Matter ID:SA2013113083

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(ASHLEY KATE MAERTZ-RESTUCHI)

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Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
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Deputy Attorney General
4 State Bar No. 197268
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5 P.O. Box 944255
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6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
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. 4943

12 **ASHLEY KATE MAERTZ-RESTUCHI -**
13 **2873 Arcade Way, #207**
Redding, CA 96002

ACCUSATION

14 **Pharmacy Technician Registration No.**
15 **121680**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about March 27, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number 121680 to Ashley Kate Maertz-Restuchi (Respondent). The Pharmacy
24 Technician Registration expired on July 31, 2013, and has not been renewed.

25 **JURISDICTION**

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

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4. Section 4300 of the Code states, in pertinent part:

- (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - (1) Suspending judgment.
 - (2) Placing him or her upon probation.
 - (3) Suspending his or her right to practice for a period not exceeding one year.
 - (4) Revoking his or her license.
 - (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

5. Section 4300.1 of the Code states:

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

6. Section 4301 of the Code 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:
- (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
 - (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.

1 (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.

2 ...

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

13 ...

14 7. California Code of Regulations, title 16, section 1770, states:

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

19 COST RECOVERY

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

24 DRUGS AT ISSUE

25 9. "Methamphetamine" is a Schedule II controlled substance as designated by Health
26 and Safety Code section 11055(d)(2).

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1 FIRST CAUSE FOR DISCIPLINE

2 (Criminal Convictions)

3 10. Respondent is subject to disciplinary action under section 4301, subdivision (l), in
4 that Respondent was convicted of crimes which are substantially related to the qualifications,
5 functions, and duties of a licensed pharmacy technician, as follows:

6 a. On or about October 17, 2014, in the case of *People v. Ashley Kate Maertz, aka*
7 *Ashley Kate Maertzrestuchi*, (Super. Ct. Shasta County, 2014, Case No. 14-03805), Respondent
8 was convicted of violating Penal Code section 451(c) (arson of a structure or land), a felony.
9 Respondent was sentenced to two years state prison. The circumstances are that on or about June
10 22, 2014, a structure fire occurred in a vacant commercial property on Hillmonte Drive, in
11 Redding, California ("Hillmonte fire"). A female suspect, later identified as Respondent, was
12 detained and confessed to intentionally starting the Hillmonte fire because there were demons and
13 devils associated with the building. Respondent stated that she had injected herself with
14 methamphetamine approximately twenty minutes before starting the Hillmonte fire. In addition,
15 Respondent confessed to intentionally starting a fire on or about June 20, 2014 within a vacant
16 single-family dwelling on Churn Creek Road in Redding, California.

17 b. On or about October 17, 2014, in the case of *People v. Ashley Kate Maertzrestuchi*,
18 (Super. Ct. Shasta County, 2013, Case No. 13-06871), Respondent was convicted of violating
19 Penal Code section 487(c) (grand theft from person), a felony. Respondent was sentenced to eight
20 months state prison, to run consecutively with her sentence for the conviction set forth in
21 paragraph 10(a), above. The circumstances are that on or about October 22, 2013, Respondent
22 was in Raley's Supermarket in Redding, California, when store employees observed her stealing
23 numerous items. When a store employee attempted to detain Respondent outside of the store for
24 the theft, and Respondent became violent and attempted to punch the store employee in the face.
25 A second store employee attempted to assist in detaining Respondent, and Respondent became
26 physically violent with both of them and attempted to escape.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dishonest Acts)**

3 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
4 that she committed acts involving moral turpitude, dishonesty, fraud deceit or corruption. The
5 circumstances are that Respondent was convicted of grand theft from person, as set forth in
6 paragraph 10(b), above.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Use of Controlled Substances to the Extent or in
9 a Manner Dangerous or Injurious to Oneself or Other)**

10 12. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
11 that Respondent used controlled substances to the extent or in a manner dangerous or injurious to
12 herself, others and the public. The circumstances are as follows:

13 a.. On or about March 1, 2013, Redding police officers responded to conduct a welfare
14 check of Respondent, based on a report that Respondent was acting strangely and claiming to be
15 in labor. When the officers arrived, they observed Respondent acting strangely, and was
16 displaying objective signs of being under the influence of a controlled substance, including having
17 constricted pupils, rapid speech and making incoherent statements. Respondent stated that she
18 was six months pregnant, in labor, and that she wanted to leave to see her midwife, but did not
19 know the midwife. Respondent initially denied using any medications or illegal drugs. The
20 officers administered a drug recognition evaluation, and determined that Respondent was under
21 the influence of methamphetamine. Respondent admitted that she had used methamphetamine in
22 the past, including the day prior, and had old injection sites on her arms. A blood sample revealed
23 that Respondent had methamphetamine in her system.

24 **PRAYER**

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

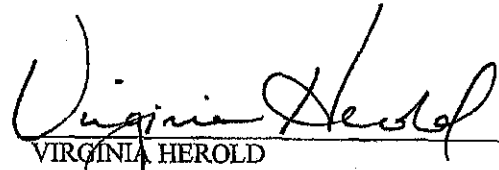
27 1. Revoking or suspending Pharmacy Technician Registration Number 121680, issued
28 to Ashley Kate Maertz-Restuchi.;

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2. Ordering Ashley Kate Maertz-Restuchi 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;

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

DATED: 4/3/15



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

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