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

In the Matter of the Accusation Against:  
**YVONNE CHRISTIAN SERNA  
P.O. Box 354  
Sultana, CA 93666**  
**Pharmacy Technician Registration No. TCH  
122431**  
  
Respondent.

Case No. 5076

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 14, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5076 against Yvonne Christian Serna (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 12, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 122431 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5076 and will expire on April 30, 2016, unless renewed.

1           3.     On or about October 2, 2014, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 5076, 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. Respondent's address of  
6 record was and is:

7           P.O. Box 354  
8           Sultana, CA 93666.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12           5.     On or about October 20, 2014, the aforementioned documents were returned by the  
13 U.S. Postal Service marked "Undeliverable as addressed." The address on the documents was the  
14 same as the address on file with the Board. Respondent failed to maintain an updated address  
15 with the Board and the Board has made attempts to serve the Respondent at the address on file.  
16 Respondent has not made herself available for service and therefore, has not availed herself of her  
17 right to file a notice of defense and appear at hearing.

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

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

24           7.     Respondent failed to file a Notice of Defense within 15 days after service upon her of  
25 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5076.

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

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

1 9. Pursuant to its authority under Government Code section 11520, the Board  
2 finds Respondent is in default. The Board will take action without further hearing and,  
3 based on the relevant evidence contained in the Default Decision Evidence Packet in this  
4 matter, as well as taking official notice of all the investigatory reports, exhibits and  
5 statements contained therein on file at the Board's offices regarding the allegations  
6 contained in Accusation No. 5076, finds that the charges and allegations in Accusation No.  
7 5076, are separately and severally, found to be true and correct by clear and convincing  
8 evidence.  
9

10 10. Taking official notice of its own internal records, pursuant to Business and  
11 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
12 and Enforcement is \$1,675.00 as of June 24, 2015.

13 DETERMINATION OF ISSUES

14 1. Based on the foregoing findings of fact, Respondent Yvonne Christian Serna has  
15 subjected her Pharmacy Technician Registration No. TCH 122431 to discipline.

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

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

20 a. Respondent is subject to discipline under Code section 4301 (f) and (l), in that  
21 Respondent was convicted of a crime that is substantially related to the qualifications, functions,  
22 and duties of a pharmacy technician, as follows: On or about April 3, 2012, in the case of *People*  
23 *v. Yvonne Christian Serna* (Tulare County Superior Court, Case No. TCM258686), Respondent  
24 was convicted on her nolo plea to a violation of Penal Code section 484 (a) (petty theft). The  
25 circumstances were that respondent took items from a Walmart store which was valued at  
26 approximately \$65.  
27  
28

1 b. Respondent is subject to discipline under Code section 4301 (f) and (j), in that during  
2 service of a warrant at Respondent's residence, a Tulare County Sheriff found a digital scale with  
3 white residue, two plastic bags containing a crystal white substance, and a WD-40 can with a  
4 false bottom containing package material and white residue. A presumptive test was performed  
5 on the crystal white substance in the plastic bag which tested positive for methamphetamine. The  
6 items were found in a bedroom.

7 ORDER

8 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 122431, heretofore  
9 issued to Respondent Yvonne Christian Serna, is revoked.

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

14 This Decision shall become effective on August 14, 2015.

15 It is so ORDERED on July 15, 2015

16 BOARD OF PHARMACY  
17 DEPARTMENT OF CONSUMER AFFAIRS  
18 STATE OF CALIFORNIA

19 

20  
21 By \_\_\_\_\_

Amarylis Gutierrez  
Board President

22  
23 11867762.DOC  
DOJ Matter ID:SA2014114525

24 Attachment:  
25 Exhibit A: Accusation

# Exhibit A

Accusation No. 5076

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 ELENA L. ALMANZO  
Deputy Attorney General  
4 State Bar No. 131058  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-5524  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5076

13 **YVONNE CHRISTIAN SERNA**  
14 **P.O. Box 354**  
**Sultana, CA 93666**

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH**  
16 **122431**

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.1. On or  
22 about July 12, 2012, the Board of Pharmacy issued Pharmacy Technician Registration Number  
23 TCH 122431 to Yvonne Christian Serna (Respondent). The Pharmacy Technician Registration  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 April 30, 2016, unless renewed.

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JURISDICTION

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

3. Section 4300 of the Code states:

"(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.

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

"(1) Medical or psychiatric evaluation.

"(2) Continuing medical or psychiatric treatment.

"(3) Restriction of type or circumstances of practice.

"(4) Continuing participation in a board-approved rehabilitation program.

"(5) Abstention from the use of alcohol or drugs.

"(6) Random fluid testing for alcohol or drugs.

"(7) Compliance with laws and regulations governing the practice of pharmacy.

"(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

1 "(e) The proceedings under this article shall be conducted in accordance  
2 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the  
3 Government Code, and the board shall have all the powers granted therein. The  
4 action shall be final, except that the propriety of the action is subject to review by the  
5 superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

#### 6 STATUTES

7 4. Section 4301 of the Code states:

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

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

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

17 "(l) The conviction of a crime substantially related to the qualifications,  
18 functions, and duties of a licensee under this chapter. The record of conviction of a  
19 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
20 States Code regulating controlled substances or of a violation of the statutes of this  
21 state regulating controlled substances or dangerous drugs shall be conclusive evidence  
22 of unprofessional conduct. In all other cases, the record of conviction shall be  
23 conclusive evidence only of the fact that the conviction occurred. The board may  
24 inquire into the circumstances surrounding the commission of the crime, in order to  
25 fix the degree of discipline or, in the case of a conviction not involving controlled  
26 substances or dangerous drugs, to determine if the conviction is of an offense  
27 substantially related to the qualifications, functions, and duties of a licensee under this  
28 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  
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  
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  
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
dismissing the accusation, information, or indictment.

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

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

5. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
administrative law judge to direct a licensee found to have committed a violation or violations of



1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 6. Section 4060 of the Code states:

4 "No person shall possess any controlled substance, except that furnished  
5 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
6 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
7 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
8 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to  
9 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
10 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph  
11 (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply  
12 to the possession of any controlled substance by a manufacturer, wholesaler,  
13 pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,  
14 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant,  
15 when in stock in containers correctly labeled with the name and address of the  
16 supplier or producer.

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

20 7. Section 118 of the Code states:

21 "(a) The withdrawal of an application for a license after it has been filed  
22 with a board in the department shall not, unless the board has consented in writing to  
23 such withdrawal, deprive the board of its authority to institute or continue a  
24 proceeding against the applicant for the denial of the license upon any ground  
25 provided by law or to enter an order denying the license upon any such ground.

26 "(b) The suspension, expiration, or forfeiture by operation of law of a  
27 license issued by a board in the department, or its suspension, forfeiture, or  
28 cancellation by order of the board or by order of a court of law, or its surrender  
without the written consent of the board, shall not, during any period in which it may  
be renewed, restored, reissued, or reinstated, deprive the board of its authority to  
institute or continue a disciplinary proceeding against the licensee upon any ground  
provided by law or to enter an order suspending or revoking the license or otherwise  
taking disciplinary action against the licensee on any such ground.

"(c) As used in this section, 'board' includes an individual who is  
authorized by any provision of this code to issue, suspend, or revoke a license, and  
'license' includes 'certificate,' 'registration,' and 'permit.'"

### DRUGS

8. Methamphetamine is a Schedule II controlled substance as designated by Health and  
Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions  
Code section 4022. It is a stimulant drug.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Criminal Conviction)

3 9. Respondent is subject to discipline under Code section 4301 (f) and (l), in that  
4 Respondent was convicted of a crime that is substantially related to the qualifications, functions,  
5 and duties of a pharmacy technician, as follows: On or about April 3, 2012, in the case of *People*  
6 *v. Yvonne Christian Serna* (Tulare County Superior Court, Case No. TCM258686), Respondent  
7 was convicted on her nolo plea to a violation of Penal Code section 484 (a) (petty theft). The  
8 circumstances were that respondent took items from a Walmart store which was valued at  
9 approximately \$65.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Possession of a controlled substance for sale)

12 10. Respondent is subject to discipline under Code section 4301 (f) and (j), in that during  
13 service of a warrant at Respondent's residence, a Tulare County Sheriff found a digital scale with  
14 white residue, two plastic bags containing a crystal white substance, and a WD-40 can with a  
15 false bottom containing package material and white residue. A presumptive test was performed  
16 on the crystal white substance in the plastic bag which tested positive for methamphetamine. The  
17 items were found in a bedroom.

18 PRAYER

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

21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 122431,  
22 issued to Yvonne Christian Serna.;

23 2. Ordering Yvonne Christian Serna to pay the Board of Pharmacy the reasonable costs  
24 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
25 section 125.3;

26 //

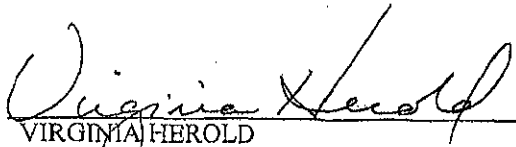
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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/14/14



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

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