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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. 5204

**GARY CHIN
101 Arbusto Circle
Sacramento, CA 95831**

DEFAULT DECISION AND ORDER

Pharmacist License No. RPH 32898

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about April 24, 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. 5204 against Gary Chin (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 9, 1979, the Board of Pharmacy (Board) issued Original Pharmacist License No. RPH 32898 to Respondent. The Original Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 5204 and expired on December 31, 2014.

3. On or about May 21, 2015, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5204, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
2 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
3 is required to be reported and maintained with the Board. Respondent's address of record was
4 and is:

5 ~~101 Arbusto Circle~~
6 Sacramento, CA 95831

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

10 5. On or about June 1, 2015, the Office of the Attorney General received from the U.S.
11 Postal Service the Domestic Return Receipt postcard for the certified mail bearing Respondent's
12 signature that shows that Respondent actually received a copy of Accusation. (Attached to
13 Exhibit A).

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

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 5204.

23 8. Furthermore, a letter dated June 9, 2015 from Respondent's attorney states:
24 "By this letter, Gary Chin is voluntarily surrendering his pharmacy license (Rph 32898)."

25 9. California Government Code section 11520 states, in pertinent part:

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

10 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

1 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
2 taking official notice of all the investigatory reports, exhibits and statements contained therein on
3 file at the Board's offices regarding the allegations contained in Accusation No. 5204, finds that
4 the charges and allegations in Accusation No. 5204, are separately and severally, found to be true
5 and correct by clear and convincing evidence.

6 11. Taking official notice of its own internal records, pursuant to Business and
7 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
8 (\$53.00) and Enforcement (\$1222.50) is \$1,275.50 as of December 9, 2015.

9 DETERMINATION OF ISSUES

10 1. Based on the foregoing findings of fact, Respondent Gary Chin has subjected his
11 Original Pharmacist License No. RPH 32898 to discipline.

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

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

16 a. Business and Professions Code section 4301, subdivision (j), for unprofessional
17 conduct, for violation of State Laws Regulating Controlled Substances.

18 b. Business and Professions Code section 4301, subdivision (l), for unprofessional
19 conduct based on a criminal conviction, in that on or about March 13, 2014, in the Sacramento
20 County Superior Court case entitled People v. Gary Chin, Case Number 14F00772, Respondent
21 pled nolo contendere to one count of violating Health and Safety Code section 1137(a)
22 (possession of a controlled substance – Methamphetamine), a misdemeanor.

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Exhibit A

Accusation

(GARY CHIN)

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 Attorneys for Complainant

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

10
11 In the Matter of the Accusation Against:

Case No. 5204

12 **GARY CHIN**
101 Arbusto Circle
13 Sacramento, CA 95831

ACCUSATION

14 **Pharmacist License No. RPH 32898**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 9, 1979, the Board issued Pharmacist License Number RPH
22 32898 to Gary Chin ("Respondent"). Respondent's pharmacist license was in full force and
23 effect at all times relevant to the charges brought herein and will expire on December 31, 2014,
24 unless renewed.

25 **JURISDICTION**

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

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1 **COST RECOVERY**

2 7. Code section 125.3 provides, in pertinent part, that a Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **DRUGS**

7 8. "Amphetamine" is a Schedule II controlled substance as designated by Health and
8 Safety Code section 11055, subdivision (d)(1).

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

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Violations of State Laws Regulating Controlled Substances)**

13 10. Respondent is subject to disciplinary action pursuant to Code section 4301,
14 subdivision (j), for unprofessional conduct, in that on or about November 12, 2013, and February
15 4, 2014, Respondent violated state laws regulating controlled substances, as follows:

16 a. On or about November 12, 2013, Sacramento Police Department officers contacted
17 Respondent at his residence. During a consensual search of Respondent's home, the officers
18 located approximately .20 grams of amphetamine and drug paraphernalia, commonly used to
19 smoke methamphetamine, in plain view in Respondent's bedroom. Respondent was charged with
20 possession of amphetamine and possession of drug paraphernalia, in violation of Health and
21 Safety Code sections 11377, subdivision (a), and 11364, respectively.

22 b. On or about February 4, 2014, at approximately 0243 hours, an officer with
23 Sacramento Police Department contacted Respondent as he was seated in his vehicle in a parking
24 lot. The officer conducted a records check on the vehicle, which showed that Respondent was
25 recently involved with methamphetamine. Respondent consented to a search of his person and
26 vehicle. The officer located a plastic baggie containing approximately 1.5 grams of
27 methamphetamine. Respondent was charged with possession of methamphetamine, in violation
28 of Health and Safety Code section 11377, subdivision (a).

1 SECOND CAUSE FOR DISCIPLINE

2 (Criminal Conviction)

3 11. Respondent is subject to disciplinary action for unprofessional conduct under section
4 4301, subdivision (f), based on a criminal conviction, in that on or about March 13, 2014, in the
5 Sacramento County Superior Court case entitled *People v. Gary Chin*, Case Number 14F00772,
6 Respondent pled nolo contendere to one count of violating Health and Safety Code section
7 1137(a) (possession of a controlled substance – Methamphetamine), a misdemeanor. The
8 circumstances of the crime are incorporated by reference in paragraph 10, subsection b, above.

9 PRAYER

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

- 12 1. Revoking or suspending Pharmacist License Number RPH 32898, issued to Gary
- 13 Chin;
- 14 2. Ordering Gary Chin to pay the Board of Pharmacy the reasonable costs of the
- 15 investigation and enforcement of this case, pursuant to Business and Professions Code section
- 16 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: _____

4/24/15

Virginia Herold

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

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DEPT. OF CONSUMER AFFAIRS
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