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

In the Matter of the Accusation Against:  
  
**BRISSA LEAL  
2541 S. University Street  
Visalia, CA 93277**  
  
**Pharmacy Technician Registration No. TCH  
120740**  
  
Respondent.

Case No. 5696

**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 15, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5696 against Brissa Leal (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. TCH 120740 to Respondent. The Pharmacy Technician Registration expired on August 31, 2015, and has not been renewed.

///

1           3.     On or about March 21, 2016, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 5696, 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 2541 S. University Street  
8 Visalia, CA 93277.

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 March 28, 2016, the certified mail Domestic Return Receipt ("green  
13 card") was returned by the U.S. Postal Service.

14           6.     Government Code section 11506(c) 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  
17 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense  
18 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its  
19 discretion may nevertheless grant a hearing.

20           7.     Respondent failed to file a Notice of Defense within 15 days after service upon her of  
21 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5696.

22           8.     California Government Code section 11520(a) states, in pertinent part:

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

27           9.     Pursuant to its authority under Government Code section 11520, the Board finds  
28 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  
file at the Board's offices regarding the allegations contained in Accusation No. 5696, finds that

1 the charges and allegations in Accusation No. 5696, are separately and severally, found to be true  
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement is \$1,017.50 as of July 5, 2016.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Brissa Leal has subjected her  
8 Pharmacy Technician Registration No. TCH 120740 to discipline.

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

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

13 a. Respondent violated Business and Professions Code section 4301, subdivision (l), in  
14 that Respondent pled guilty to violating Health and Safety Code section 11377, subdivision (a)  
15 (unlawful possession of a controlled substance), a misdemeanor.

16 b. Respondent violated Business and Professions Code section 4301, subdivision (j), in  
17 that Respondent possessed the controlled substance methamphetamine in violation of Health and  
18 Safety Code section 11377, subdivision (a).

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ORDER

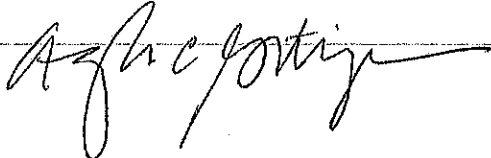
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 120740, heretofore issued to Respondent Brissa Leal, is revoked.

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 at 5:00 p.m. on September 9, 2016.

It is so ORDERED on August 10, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

12332251.DOC  
DOJ Matter ID:SA2015106158

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

(BRISSA LEAL)

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 DAVID E. BRICE  
Deputy Attorney General  
4 State Bar No. 269443  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-8010  
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. 5696

13 **BRISSA LEAL**  
2541 S. University Street  
Visalia, CA 93277

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
120740

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

21 2. On or about March 27, 2012, the Board issued Pharmacy Technician Registration  
22 Number TCH 120740 to Brissa Leal ("Respondent"). The pharmacy technician registration  
23 expired on August 31, 2015.

24 **JURISDICTION/STATUTORY PROVISIONS**

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

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1 4. Section 4300 states, in pertinent part:

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

3 (b) The board shall discipline the holder of any license issued by the  
4 board, whose default has been entered or whose case has been heard by the board and  
found guilty, by any of the following methods:

5 (1) Suspending judgment.

6 (2) Placing him or her upon probation.

7 (3) Suspending his or her right to practice for a period not exceeding one  
8 year.

9 (4) Revoking his or her license.

10 (5) Taking any other action in relation to disciplining him or her as the  
board in its discretion may deem proper . . .

11 5. Section 4300.1 states:

12 The expiration, cancellation, forfeiture, or suspension of a board-issued  
13 license by operation of law or by order or decision of the board or a court of law, the  
14 placement of a license on a retired status, or the voluntary surrender of a license by a  
15 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.

16 6. Section 4301 states, in pertinent part:

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

20 . . . .

21 (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.

22 . . . .

23 (l) The conviction of a crime substantially related to the qualifications,  
24 functions, and duties of a licensee under this chapter. The record of conviction of a  
25 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
States Code regulating controlled substances or of a violation of the statutes of this  
26 state regulating controlled substances or dangerous drugs shall be conclusive  
evidence of unprofessional conduct. In all other cases, the record of conviction shall  
27 be conclusive evidence only of the fact that the conviction occurred. The board may  
inquire into the circumstances surrounding the commission of the crime, in order to  
28 fix the degree of discipline or, in the case of a conviction not involving controlled  
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

1 chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
2 contendere is deemed to be a conviction within the meaning of this provision. The  
3 board may take action when the time for appeal has elapsed, or the judgment of  
4 conviction has been affirmed on appeal or when an order granting probation is made  
5 suspending the imposition of sentence, irrespective of a subsequent order under  
6 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
7 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
8 dismissing the accusation, information, or indictment . . .

9 **COST RECOVERY**

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

14 **DRUG CLASSIFICATIONS**

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

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Criminal Conviction)**

19 9. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
20 section 4301, subdivision (l), in that on or about October 9, 2015, in the criminal proceeding  
21 entitled *People vs. Brissa Leal* (Tulare County Super. Ct., Case No. VCM314918), Respondent  
22 pled guilty to violating Health and Safety Code section 11377, subdivision (a) (unlawful  
23 possession of a controlled substance), a misdemeanor. The circumstances of the crime are as  
24 follows. On or about January 5, 2015, a Visalia Police Department Officer conducted an  
25 enforcement stop on Respondent's vehicle. The officer made contact with Respondent and asked  
26 her if she had anything illegal inside of her vehicle. Respondent stated "no", then consented to a  
27 search of her vehicle. The officer searched the vehicle and found two plastic baggies with a rock  
28 like substance inside of each baggie. The officer determined later that the baggies contained  
methamphetamine.

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