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

11 Case No. 3563

12 In the Matter of the Accusation Against:

13 RAQUEL JANINE DELACRUZ; a.k.a.  
14 RAQUEL JANINE MARIA PATINO DELACRUZ; a.k.a.  
15 RAQUEL DE LA CRUZ  
2030 W. Dogwood Avenue  
Anaheim, CA 92801

Pharmacy

16 Technician Registration No. TCH 62221

17 Respondent.

**A C C U S A T I O N**

18  
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about June 1, 2005, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 62221 to Raquel Janine Delacruz, also known as Raquel Janine Maria  
25 Patino Delacruz, also known as Raquel De La Cruz (Respondent). The Pharmacy Technician  
26 Registration was in full force and effect at all times relevant to the charges brought herein and  
27 will expire on June 30, 2011, unless renewed.

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**JURISDICTION**

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

5       4.    Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
7 disciplinary action during the period within which the license may be renewed, restored, reissued  
8 or reinstated.

9       5.    Section 4300, subdivision (a) of the Code states that "Every license issued may be  
10 suspended or revoked."

**STATUTORY PROVISIONS**

11  
12       6.    Section 4301 of the Code states:

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

16            .....

17            (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
18 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.

19            .....

20            (l) The conviction of a crime substantially related to the qualifications,  
21 functions, and duties of a licensee under this chapter. The record of conviction of  
22 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
23 States Code regulating controlled substances or of a violation of the statutes of this  
24 state regulating controlled substances or dangerous drugs shall be conclusive  
25 evidence of unprofessional conduct. In all other cases, the record of conviction  
26 shall be conclusive evidence only of the fact that the conviction occurred. The  
27 board may inquire into the circumstances surrounding the commission of the  
28 crime, in order to 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 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

1 judgment of conviction has been affirmed on appeal or when an order granting  
2 probation is made suspending the imposition of sentence, irrespective of a  
3 subsequent order under Section 1203.4 of the Penal Code allowing the person to  
4 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
5 the verdict of guilty, or dismissing the accusation, information, or indictment.

6 . . . .

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

8 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
9 revoke a license on the ground that the licensee has been convicted of a crime substantially  
10 related to the qualifications, functions, or duties of the business or profession for which the  
11 license was issued.

12 8. Section 493 of the Code states:

13 Notwithstanding any other provision of law, in a proceeding conducted by a  
14 board within the department pursuant to law to deny an application for a license or  
15 to suspend or revoke a license or otherwise take disciplinary action against a  
16 person who holds a license, upon the ground that the applicant or the licensee has  
17 been convicted of a crime substantially related to the qualifications, functions, and  
18 duties of the licensee in question, the record of conviction of the crime shall be  
19 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
20 and the board may inquire into the circumstances surrounding the commission of  
21 the crime in order to fix the degree of discipline or to determine if the conviction is  
22 substantially related to the qualifications, functions, and duties of the licensee in  
23 question.

24 As used in this section, "license" includes "certificate," "permit,"  
25 "authority," and "registration."

26 9. Section 482 of the Code states:

27 Each board under the provisions of this code shall develop criteria to  
28 evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation  
furnished by the applicant or licensee.

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REGULATORY PROVISIONS

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

For the purpose of denial, suspension, or revocation of a personal or facility license 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 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 functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

11. California Code of Regulations, title 16, section 1769, states:

....

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(7/10/2008 Felony Convictions – Acquiring Access Cards, Possessing Completed  
Check with Intent to Defraud, Burglary, Grand Theft on 9/21/2007)

13. Respondent is subject to disciplinary action under sections 490 and 4301(1) of the Code in that she was convicted of crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

1 a. On or about July 10, 2008, in a criminal proceeding entitled *People of the State*  
2 *of California v. Raquel Janine Maria Patino Delacruz*, in Orange County Superior Court, Case  
3 Number 07NF4323, Respondent was convicted on her plea of guilty to four felonies, including  
4 violation of: Penal Code section 484e(d), acquiring access cards using different names, a felony;  
5 Penal Code section 475(c), possessing a completed check with intent to defraud, a felony; Penal  
6 Code section 459-460(b), burglary in the second degree, a felony; and Penal Code section 487(a),  
7 grand theft, a felony.

8 b. As the result of her convictions, Respondent was granted 3 years of formal  
9 probation, sentenced to 180 days in jail, and ordered to pay restitution.

10 c. The facts and circumstances that led to the convictions were that on or about  
11 September 21, 2007, Respondent, who working as an employee at Walgreens, accessed a credit  
12 card number of a customer and linked it to a different customer's Walgreen Expresspay Account.  
13 This type of account allows the customer to verbally verify themselves at the cash register and  
14 then those purchases are directly charged to the credit card on file. Respondent did not have  
15 authorization to attach the credit card number to the Expresspay Account. The customer  
16 discovered later that an unauthorized transaction of \$561.16 was processed on his credit card  
17 account. Part of this transaction included a \$500 gift card.

18 d. On or about the same day on September 21, 2007, Respondent and her  
19 boyfriend entered a different Walgreens located in Buena Park and redeemed a portion of the  
20 \$500 gift card. In her plea of guilty, Respondent admitted that she unlawfully entered the  
21 Walgreens with the intent to commit larceny.

22 e. On or about October 14, 2008, Respondent fraudulently charged \$470.36 to  
23 another customer's credit card using the Expresspay Account verification. Respondent purchased  
24 four \$100.00 American Express gift cards, Hallmark cards, and DVDs, and picked up a  
25 prescription for Isosorbide Dinitrate 10 mg tablets. Respondent admitted that she unlawfully took  
26 money and personal property from the customer.

27 f. On or about November 1, 2007, Respondent possessed, with the intent to  
28 defraud, a written check payable to Respondent in the sum of \$400.00 which was not authorized

1 by the owner of the checking account. Respondent admitted that she possessed the check with the  
2 intent to defraud the owner.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Moral Turpitude, Fraud and Dishonesty)**

5 14. Respondent is subject to disciplinary action for unprofessional conduct under section  
6 4301(f) of the Code in that Respondent's acquiring access cards using different names, possessing  
7 a completed check with the intent to defraud, burglary and grand theft constitute moral turpitude,  
8 fraud, and dishonesty, as is detailed in paragraph 13, above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Conduct That Would Have Warranted a Denial of a License)**

11 15. Respondent is subject to disciplinary action under section 4301(p) of the Code in that  
12 Respondent committed burglary, grand theft, possession of a completed check with the intent to  
13 defraud and acquired access card account information using different names. Such egregious  
14 conduct would have warranted the denial of a pharmacy technician registration under section 480,  
15 subdivisions (a)(1) and (a)(2) of the Code.

16 **PRAYER**

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

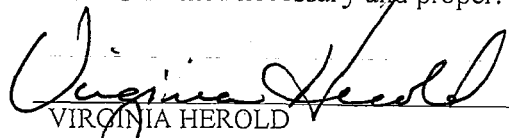
19 1. Revoking or suspending Pharmacy Technician Number TCH 62221, issued to Raquel  
20 Janine Delacruz;

21 2. Ordering Raquel Janine Delacruz to pay the Board of Pharmacy the reasonable costs  
22 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
23 section 125.3;

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

DATED: 6/9/18



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

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