

1 EDMUND G. BROWN JR.
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 KIM M. SETTLES
Deputy Attorney General
4 State Bar No. 116945
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2138
Facsimile: (510) 622-2270
7 E-mail: kim.settles@doj.ca.gov
Attorneys for Complainant

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10 **BEFORE THE**
11 **BOARD OF PHARMACY**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 3846

15 **JOSE MENDOZA**
16 **Post Office Box 2616**
Santa Rosa, CA 95405
Pharmacy Technician No. TCH 70114

A C C U S A T I O N

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia K. Herold (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the California State Board of Pharmacy.

23 2. On or about July 10, 2006, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 70114 to Jose Mendoza (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought in this
26 Accusation and will expire on May 31, 2012, unless renewed.

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1 **JURISDICTION**

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

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

8 **STATUTORY/REGULATORY PROVISIONS**

9 5. Section 4301 of the Code states:

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

13 ...

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

17 ...

18 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
19 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
20 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
21 to the extent that the use impairs the ability of the person to conduct with safety to the public the
22 practice authorized by the license."

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

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

3 **COST RECOVERY**

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct: Moral Turpitude/Corruption)**

10 8. Respondent has subjected his license to discipline under section 4301, subdivision (f);
11 in that on January 5, 2010, while employed as a pharmacy technician at CVS Pharmacy #9931,
12 Respondent reported to work intoxicated and walked off the job after refusing to submit to a
13 drug/alcohol test. Respondent returned to work later with a gun on the seat of his car and
14 contacted a co-worker (pharmacy technician) in the parking lot. Respondent picked up the gun
15 and told the co-worker that the gun was "for Dan" (pharmacist-in-charge). The co-worker
16 contacted the Windsor Police Department and Respondent was arrested at his home. Respondent
17 was intoxicated and in possession of a gun and ammunition at the time of his arrest.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct: Use of Alcohol)**

20 9. Paragraph 7, above, is incorporated by reference as if fully set forth.

21 10. Respondent has subjected his license to disciplinary action under section 4301,
22 subdivision (h), in that on January 5, 2010, Respondent consumed alcohol and reported to work in
23 an intoxicated condition as set forth in paragraph 7, above.

24 **PRAYER**

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

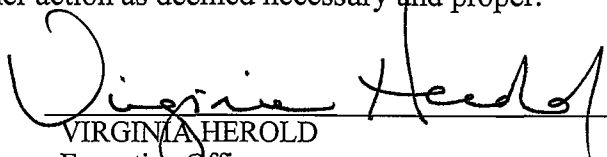
27 1. Revoking or suspending Pharmacy Technician Number TCH 70114, issued to Jose
28 Mendoza;

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2. Ordering Jose Mendoza 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: 12/10/10



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