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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3883

11 **ARTURO MILTON MENDOZA**
12 **a.k.a., ARTURO MILTON VILLELA**
a.k.a., ARTURO MILTON BELTRAN
13 **a.k.a., ARTURO VILLEA MENDOZA**
a.k.a., ARTURO VILLELA MENDOZA
14 **a.k.a., ARTURO V. MENDOZA**
a.k.a., ARTURO MENDOZA
15 **a.k.a., RAY CHAVEZ**
a.k.a., ARTURO VILLELA MENDOSA
16 2704 Union Street
Rialto, CA 92376

A C C U S A T I O N

17 Pharmacy Technician Registration
18 No. TCH 49387

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
25 2. On or about January 3, 2005, the Board of Pharmacy (Board) issued Pharmacy
26 Technician Registration No. TCH 49387 to Arturo Milton Mendoza, also known as Arturo Milton
27 Vilella, Arturo Milton Belran, Arturo Vilella Mendoza, Arturo Vilella Mendoza, Arturo V.

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1 Mendoza, Arturo Mendoza, Ray Chavez, and Arturo Villela Mendosa (Respondent). The
2 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
3 brought herein and will expire on April 30, 2014, unless renewed.

4 JURISDICTION

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

7 STATUTORY PROVISIONS

8 4. Section 118, subdivision (b), provides, in pertinent part, that the expiration of a
9 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
10 period within which the license may be renewed, restored, reissued or reinstated.

11 5. Section 490 states, in pertinent part:

12 "(a) In addition to any other action that a board is permitted to take against a licensee, a
13 board may suspend or revoke a license on the ground that the licensee has been convicted of a
14 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
15 or profession for which the license was issued.

16 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
17 discipline a licensee for conviction of a crime that is independent of the authority granted under
18 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
19 of the business or profession for which the licensee's license was issued.

20 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
21 conviction following a plea of nolo contendere. Any action that a board is permitted to take
22 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
23 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
24 made suspending the imposition of sentence, irrespective of a subsequent order under the
25 provisions of Section 1203.4 of the Penal Code."

26 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
27 subject to discipline, including suspension or revocation.

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1 7. Section 4301 states, in pertinent part:

2 "The board shall take action against any holder of a license who is guilty of unprofessional
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

4 Unprofessional conduct shall include, but is not limited to, any of the following:

5

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

9 "(g) Knowingly making or signing any certificate or other document that falsely
10 represents the existence or nonexistence of a state of facts.

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

16

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

19 "(k) The conviction of more than one misdemeanor or any felony involving the use,
20 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
21 combination of those substances.

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

1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
5 of this provision. The board may take action when the time for appeal has elapsed, or the
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
10 indictment.”

11 8. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

12 “No person shall use, or be under the influence of any controlled substance which is (1)
13 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
14 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
15 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
16 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
17 Schedule III, IV, or V, except when administered by or under the direction of a person licensed
18 by the state to dispense, prescribe, or administer controlled substances.”

19 **REGULATORY PROVISIONS**

20 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

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1 **COST RECOVERY**

2 10. Section 125.3 provides, in pertinent part, that the 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 11. **CONTROLLED SUBSTANCES**

7 a. "Ativan," is the brand name for Lorazepam, a Benzodiazepine derivative. It is a
8 Schedule IV controlled substance as designated by Health and Safety Code section 11057,
9 subdivision (d)(16) and is categorized as a dangerous drug pursuant to section 4022.

10 b. "Heroin," is a semisynthetic drug derived from Morphine. It is a Schedule I
11 controlled substance as designated by Health and Safety Code section 11054, subdivision (c)(11)
12 and is categorized as a dangerous drug pursuant to section 4022.

13 c. "Methamphetamine," is a Schedule II controlled substance as designated by Health
14 and Safety Code section 11055, subdivision (d)(2) and is categorized as a dangerous drug
15 pursuant to section 4022.

16 12. **DANGEROUS DRUG**

17 a. "Benadryl," is the brand name for Diphenhydramine, an antihistamine used for
18 treating allergic reactions and is categorized as a dangerous drug pursuant to section 4022.

19 b. "Depakote," is the brand name for Valproic Acid and Divalproex, used for the
20 treatment of convulsions, migraines, bipolar disorder and is categorized as a dangerous drug
21 pursuant to section 4022.

22 c. "Prozac," is the brand name for Fluoxetine, a selective serotonin reuptake inhibitor
23 and is categorized as a dangerous drug pursuant to section 4022.

24 **FIRST CAUSE FOR DISCIPLINE**

25 *(Convictions of Substantially Related Crimes)*

26 13. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
27 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
28

1 Respondent has been convicted of crimes substantially related to the qualifications, functions, or
2 duties of a pharmacy technician, as follows:

3 a. On or about May 20, 2009, after pleading guilty, Respondent was convicted of one
4 felony count of violating Penal Code section 646.9, subdivision (c)(2) [stalking with prior] in the
5 criminal proceeding entitled *The People of the State of California vs. Arturo Villela Mendoza*
6 (Super. Ct. San Diego County, 2009, No. SCD219184). The Court sentenced Respondent to
7 serve 270 days in San Diego County Jail and placed him on 3 years formal probation, with terms
8 and conditions. The circumstances surrounding the conviction are that on or about January 14,
9 2009, Respondent made statements and threats to B. M. that caused her to be in fear for her safety
10 and for the safety of her immediate family. On or about January 17, 2009, A San Diego detective
11 interviewed Respondent while he was incarcerated and asked if he was taking any medications.
12 Respondent stated, "I am taking Depacote to stay calm." When asked if he was taking anything
13 else, Respondent stated, "Benadryl and Ativan 1.5 mg." When asked if he understood the
14 questions, Respondent stated, "Yes, I understand you fine." When asked if he called B.M. and
15 threatened to kill her and burn her house down, Respondent stated, "No, I don't even know where
16 she lives." When asked if he wanted to hurt B.M., due to a phone message that he left her,
17 Respondent stated, "No." When asked why he left B.M. the message, Respondent stated, "I don't
18 know, I don't remember leaving her a message. I could have been blacking out, I was drinking at
19 the time. Sometimes I black out when I drink."

20 b. On or about March 18, 2008, after pleading guilty, Respondent was convicted of one
21 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while
22 having a 0.08% and more, by weight, of alcohol in his blood] in the criminal proceeding entitled
23 *The People of the State of California vs. Arturo V. Mendoza* (Super. Ct. San Diego County, 2008,
24 No. S217498). The Court sentenced Respondent to serve 96 hours in San Diego County Jail and
25 placed him on 5 years probation, with terms and conditions. The circumstances surrounding the
26 conviction are that on or about February 5, 2008, Respondent drove a vehicle while having 0.08%
27 and more, by weight, of alcohol in his blood, and collided with another vehicle resulting in
28 property damage to another. While speaking to Respondent, the California Highway Patrol

1 Officer detected an odor of an alcoholic beverage emitting from Respondent's person. He was
2 observed to have red watery eyes and a thick slurred speech. While at the scene, Respondent
3 submitted to a Preliminary Alcohol Screening (PAS) Test that resulted in a breath-alcohol content
4 level of 0.260% on the first reading and 0.246% on the second reading:

5 c. On or about June 5, 2003, after pleading guilty, Respondent was convicted of one
6 misdemeanor count of violating Penal Code section 647, subdivision (a) [lewd conduct] in the
7 criminal proceeding entitled *The People of the State of California vs. Arturo V. Mendoza* (Super.
8 Ct. Riverside County, 2003, No. RIM435514). The Court sentenced Respondent to serve 30 days
9 in Riverside County Jail and placed him on 36 months probation, with terms and conditions. The
10 circumstances surrounding the conviction are that on or about April 24, 2003, the Riverside
11 Police Department Officers observed Respondent masturbating in a public park urinal stall.

12 **SECOND CAUSE FOR DISCIPLINE**

13 *(Dangerous Use of Alcohol)*

14 14. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
15 that on or about February 5, 2008, Respondent used alcoholic beverages to an extent or in a
16 manner dangerous our injurious to himself, another person, or the public, when he drove a
17 vehicle, while having approximately 0.26% of alcohol in his blood. Complainant refers to, and
18 by this reference incorporates, the allegations set forth above in paragraph 13, subdivision (b), as
19 though set forth fully.

20 **THIRD CAUSE FOR DISCIPLINE**

21 *(Use/Under the Influence of a Controlled Substance and/or a Dangerous Drug)*

22 15. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and
23 (j), in that Respondent used and/or was under the influence of a controlled substance and/or a
24 dangerous drug, as follows:

25 a. On or about January 26, 2009, during an investigation of a male subject standing next
26 to the river without pants, by the San Diego Police Department Officers, Respondent was
27 contacted. While speaking to Respondent, he was observed to be naked from the waist down. He
28 was holding 2 large rocks and indicated to the officers that he had nothing to loose. Respondent

1 refused to listen to the officers and indicated that he was going to kill himself and wanted to kill
2 his wife and mother. Respondent indicated that he was "God" and "Thor." When asked if he was
3 taking any medications, Respondent stated, "Prozac, but have never taken it." When asked if he
4 had been using any street drugs in the past two weeks, Respondent stated, "Yes, Heroin and
5 Meth." Respondent was detained with force, by two police officers, transported to County
6 Mental Health, and placed on hold, in violation of Welfare and Institutions Code section 5150
7 [mentally ill].

8 **FOURTH CAUSE FOR DISCIPLINE**

9 *(Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)*

10 16. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
11 that Respondent committed acts involving moral turpitude, dishonesty, fraud, or deceit, as
12 follows:

13 a. On or about February 25, 2009, Respondent failed to appear at the San Bernardino
14 Court for arraignment, under Case No. SBHC2918AB, for violating one misdemeanor count of
15 Vehicle Code section 14601.2., subdivision (a) [driving while driver's license is suspended for
16 driving under the influence] and one misdemeanor count of Vehicle Code section 40508,
17 subdivision (a) [failure to appear]. As of April 20, 2012, Respondent is still a fugitive.

18 b. On or about January 14, 2009, Respondent was arrested by the San Diego Police
19 Department for violating Penal Code section 422 [threatening with intent to terrorize]. He was
20 subsequently conviction of this crime on May 20, 2009. Complainant refers to, and by this
21 reference incorporates, the allegations set forth above in paragraph 13, subdivision (a), as though
22 set forth fully.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(Knowingly Made a False Statement of Fact to Licensing Authority)**

25 17. Respondent is subject to disciplinary action under section 4301, subdivision (g), in
26 that on or about July 14, 2003, Respondent knowingly made a false statement of fact to the Board
27 by failing to disclose his June 5, 2003 conviction case against him on his initial application for
28 licensure and conviction of Record. Complainant refers to, and by this reference incorporates, the

1 allegations set forth above in paragraph 13, subdivision (c), as though set forth fully. In addition,
2 Respondent signed and declared under penalty of perjury, under the laws of the State of
3 California that the foregoing was true and correct on his application for licensure.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Conviction of More than One Misdemeanor or Felony Involving Drugs)**

6 18. Respondent is subject to disciplinary action under section 4301, subdivision (k), in
7 that respondent has been convicted of more than one misdemeanor or felony involving the use,
8 consumption or self administration of a dangerous drug or alcoholic beverage, or any
9 combination of those substances. Complainant refers to, and by this reference incorporates, the
10 allegations set forth above in paragraphs 13, subdivisions (a) & (b), 14, and 15 subdivision (a), as
11 though set forth fully.

12 **DISCIPLINARY CONSIDERATIONS**

13 18. In order to determine the degree of discipline, if any, to be imposed on Respondent,
14 Complainant alleges the following:

15 a. On or about December 14, 2000, after pleading guilty, Respondent was convicted of
16 one misdemeanor count of violating Penal Code section 166, subdivision (A)(4) [disobeying a
17 court order] in the criminal proceeding entitled *The People of the State of California vs. Arturo*
18 *Villela Mendoza* (Super. Ct. San Bernardino County, 2000, No. MVA030641). The Court
19 sentenced respondent to serve 180 days in San Bernardino County Jail and ordered him to pay
20 fees and restitution. The circumstances surrounding the conviction are that on or about October
21 5, 2000, Respondent willfully and knowingly disregarded a court order, to wit: Restraining Order.

22 b. On or about July 21, 2000, after pleading guilty, Respondent was convicted of one
23 felony count of violating Penal Code section 646.9, subdivision (a) [stalking] in the criminal
24 proceeding entitled the *People of the State of California vs. Arturo Villela Mendoza* (Super. Ct.
25 San Bernardino County, 2000, No. FSB026586). The Court sentenced Respondent to serve 58
26 days in San Bernardino County Jail and placed him on 36 months formal probation, with terms
27 and conditions. On or about December 14, 2000, Respondent was appeared (in custody) and
28 admitted that he had violated the Court's probation order. The Court reinstated Respondent's

1 previous probation on the same terms and conditions, but, due to the probation violation,
2 modified the previous order to add 365 days in San Bernardino County Jail. The circumstances
3 surrounding the conviction are that on or about January 25, 2000, Respondent stalked the victim
4 and reasonably caused her to be in fear for her safety and for the safety of her immediate family.

5 c. On or about February 10, 2000, after pleading guilty, Respondent was convicted of
6 one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving under
7 the influence of alcohol or drugs], one misdemeanor count of Vehicle Code section 23152,
8 subdivision (b) [driving while having a 0.08% and more, by weight, of alcohol in his blood], and
9 one misdemeanor count of Vehicle Code section 40508, subdivision (a) [failure to appear] in the
10 criminal proceeding entitled *The People of the State of California vs. Arturo Mendoza* (Super. Ct.
11 San Bernardino County, 2000, No. TSB103344). The Court sentenced Respondent to serve 2
12 days in San Bernardino County Jail, ordered pronouncement of judgment withheld, and
13 conditional and revocable release granted for a period of 36 months, with terms and conditions.
14 The circumstances surrounding the conviction are that on or about December 22, 1999,
15 Respondent drove a vehicle while under the influence of alcohol or drugs and while having
16 driving while having a 0.08% and more, by weight, of alcohol in his blood. In addition, on or
17 about January 27, 2000, Respondent failed to appear at the San Bernardino County Superior
18 Court for arraignment.

19 d. On or about December 21, 2000, after pleading nolo contendere, Respondent was
20 convicted of one misdemeanor count of violating Penal Code section 853.7 [failure to appear on
21 written promise] in the criminal proceeding entitled *The People of the State of California vs.*
22 *Arturo Mendoza* (Super. Ct. San Bernardino County, 2000, No. 240619AM). The Court
23 sentenced respondent to serve 10 days in San Bernardino County Jail and ordered him to pay fees.
24 The circumstances surrounding the conviction are that on or about October 4, 2000, Respondent
25 failed to appear on a written promise.

26 e. On or about June 6, 2000, after pleading guilty, Respondent was convicted of one
27 misdemeanor count of violating Penal Code section 647, subdivision (f) [disorderly conduct:
28 person under the influence of alcohol or drugs] in the criminal proceeding entitled *The People of*

1 *the State of California vs. Arturo Mendoza* (Super. Ct. San Bernardino County, 2000, No.
2 MVA027666). The Court sentenced respondent to serve 15 days in San Bernardino County Jail
3 and ordered him to pay fees and restitution. The circumstances surrounding the conviction are
4 that on or about January 16, 2000, Respondent was found to be under the influence of alcohol or
5 drugs and unable to provide for his safety or the safety of others.

6 f. On or about March 6, 2000, after pleading guilty, Respondent was convicted of one
7 misdemeanor count of violating Penal Code section 647, subdivision (f) [disorderly conduct:
8 person under the influence of alcohol or drugs] and one misdemeanor count of Penal Code section
9 853.7 [failure to appear on written promise] in the criminal proceeding entitled *The People of the*
10 *State of California vs. Arturo Mendoza* (Super. Ct. San Bernardino County, 2000, No.
11 604722AM). The Court ordered Respondent to pay fees and fines. The circumstances
12 surrounding the conviction are that on or about November 6, 1999, Respondent was found to be
13 under the influence of alcohol or drugs and unable to provide for his safety or the safety of others.
14 On or about February 14, 2000, Respondent failed to appear on a written promise.

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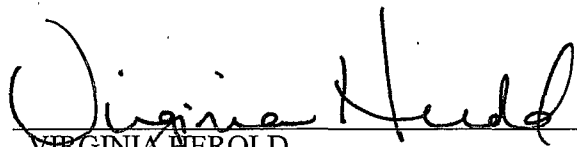
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 49387, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/1/12



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

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